REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 28760/2009

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: YES

DATE: 16 September 2025

SIGNATURE OF JUDGE:

In the matter between:

JACK NELSON RAMASHIA Plaintiff

and

MINISTER OF POLICE Defendant

JUDGMENT

Woodrow, AJ:

Introduction

[1] The plaintiff suffered damage when he was shot by members of the defendant (the "**incident**"). The issue of liability has been conceded by the defendant. According to the defendant's heads of argument (par 4): "*The issue of merits was decided in favour of the plaintiff at 100% on August 8, 2017.*"

[2] The quantum to be awarded to the plaintiff is the only issue to be decided.

[3] The plaintiff is Jack Nelson Ramashia, born on March 6, 1964. The plaintiff worked as a driver for Earlybird Farm at the time of the incident.

[4] The incident occurred on 18 May 2006.

[5] At the time of the incident the plaintiff was 42 years old. He is currently 61 years old.

[6] In their pre-trial minute signed in April 2025 (**CaseLines, 006-7**), the parties agreed under the heading 'issues in dispute' as follows:

"*8.1. The only issue to be determined by this honourable court is the extent on which damages caused by the incident are to be awarded to the Plaintiff.*

8.2. The plaintiff will rely on experts reports appointed on the matter who had conducted the medical examination on the plaintiff.

8.3. The court is called upon to decide whether the Plaintiff is entitled to the award as per the amended particulars of claim."

[7] In terms of the amended particulars of claim (**CaseLines, 003**), the plaintiff claims under the following heads of damage in the following sums:

"…

7.1 Past Medical Expenses	*R67 784.69*
7.2 Estimated Future Medical, Hospital and Related Expenditure	*R400 000.00*
7.3 Loss of Earnings	*R2 927 386.00*
7.4 General Damages	*R5 000 000.00*
TOTAL	***R8 395 170.69***"

[8] The parties are agreed that the court is to accept the content of the expert reports filed on behalf of the plaintiff as evidence in determining the *quantum* of the plaintiff's loss. This was confirmed during the hearing. The parties filed heads of argument and made oral submissions regarding the aforesaid heads of damage.

The experts

[9] The following experts for the plaintiff filed reports:

a. Dr ND Thikhathali – Orthopaedic Surgeon (**CaseLines, 007**) who examined the plaintiff of 1 November 2023.[1]

b. Prof OD Montwedi – General Surgeon (**CaseLines, 008**) who examined/interviewed the plaintiff of 29 January 2024.[2]

c. Ms KP Mabye – Occupational Therapist (**CaseLines, 009**) who assessed the plaintiff on 6 November 2023.[3]

d. Ms K Rakgokong – Industrial Psychologist (**CaseLines, 010**) who assessed the plaintiff on 6 November 2023.[4]

e. Mr IB Karidza – Actuary (**CaseLines, 011**) who performed the calculation with calculation date 1 July 2024.[5]

[10] The plaintiff had previously filed the following expert reports:

a. Dr Malevu – Radiologist (**CaseLines, 06-1**) with examination date reflected as 11 July 2017.

b. TJ Mufamadi – Occupational Therapist (**CaseLines, 07-1**) with date of assessment reflected as 26 July 2017.

c. Dr M Radzilani – Orthopaedic Surgeon (**CaseLines, 08-1**) with date of assessment reflected as 7 September 2017.

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[1] **CaseLines, 007-5**, par 1.3

[2] **CaseLines, 008-4**

[3] **CaseLines, 009-3**, par 1

[4] **CaseLines, 010-4**

[5] **CaseLines, 011-3**, par 1

The plaintiff's injuries

[11] Counsel for the defendant refers to the J88 in summarising the injuries of the plaintiff as follows:

> "*Gunshot left abdomen and lower chest. The bullet entered the left flank at the edge of the abdomen between the abdomen and the pleural cavity. Heamotoma on the upper abdomen near the spleen and the colon; entering the lower chest rib 10 left and causing damage to the left lung and diaphragm. He underwent laparotomy chest and was off duty for 7 weeks.*" (***Defendant's heads of argument, par 7***)

[12] Dr Thikhathali summarises the injuries sustained by the plaintiff as follows: (***CaseLines, 007-6, par 3.1***)

> ***3.1 Injuries Sustained***
>
> *<u>According to the claimant</u>*
>
> - *Scalp injury*
> - *Left sided back injury*
> - *Penetrating Gunshot injury to the abdomen and chest*
>
> *<u>According to the hospital records</u>*
>
> - *10th rib fracture*
> - *Gunshot abdomen/chest*
> - *Acute abdomen*
> - *Pneumothorax*

The plaintiff's treatment

[13] Counsel for the defendant submits that the treatment received by the plaintiff "*reflects the severity of the plaintiff's injuries.*" (***Defendant's heads of argument, par 9***) She refers to the summary of the treatment as set out by Dr Thikhathali (at ***CaseLines, 007-6, par 3.2***). In essence, Dr Thikhathali points out that the plaintiff received the following treatment:

a. The plaintiff was taken by an ambulance to Thembisa hospital where he received acute management.

b. He was managed according to ATLS principles.

c. Acute plain x-rays, abdominal x-rays, and CT scan were done.

d. The initial management included the insertion of a nasogastric tube and an intravenous line.

e. He was given analgesia.

f. He was also on antibiotics as part of the initial management.

g. He was later transferred to ARWYP private hospital the following day for further management.

h. He had an exploratory laparotomy that was done at ARWYP. An intercostal drain was also inserted.

i. Physiotherapy was provided for muscle spasms. Chest physiotherapy was also provided.

j. He stayed at ARWYP hospital for two weeks undergoing further management. He went to theatre on two occasions. A drain was inserted in the abdomen on the second theatre visit where he presented with projectile vomiting.

k. He was treated for paravertebral and left flank muscle spasms.

l. The follow-up visits were fraught with complications related to the injury.

The *sequelae*:

[14] Regarding the plaintiff's situation prior to the incident, according to Dr Thikhathali, the plaintiff had "… *no relevant past medical history*" (at ***CaseLines, 007-8, par 5***), and "*… a normal pre-injury function with no physical limitations. …*" (at ***CaseLines, 007-8, par 6.1***).

[15] Dr Thikhathali states the following in respect of the plaintiff's present complaints:

> "*The patient is currently complaining of the severe back pain and muscle spasms requiring a back brace. He has lower abdominal pain, testicular pains and loss of interest in sexual intercourse. He also has episodes of vomiting since the pancreatic trauma.*" (at ***CaseLines, 007-7, par 4***)

[16] Regarding the plaintiff's "***Post injury status***", Dr Thikhathali states the following:

> "*6.2 He has difficulty in drinking fluids and eating. He also has difficulty in performing manual tasks and engaging in sexual intercourse due to lack of libido. He has difficulty sitting on his right buttock.*" (at ***CaseLines, 007-8, par 6.2***)

[17] With reference to the psychological impact on the plaintiff Dr Thikhathali states as follows: "*The patient reportedly has a fear of police since this incident. He has had previous disagreements with the police who tried to follow him wherein he refused to stop scared that they may shoot him again.*" (at ***CaseLines, 007-9, par 9***) The plaintiff, however, did not call or file an expert report by a clinical psychologist.

[18] Dr Thikhathali reports as follows in respect of his physical examination of the plaintiff: (at ***CaseLines, 007-9, par 10***)

"***10.1 General examination***

The patient has a normal gait with no signs of neurological defects. He mobilizes with no assistive devices. He communicates well with a GCS 15/15.

10.2 Scars and disfigurement

Midline abdominal scar

- *A healed surgical scar measuring 20cm x 2cm*

Back scar

- *A left sided healed stellate scar on the back is consistent with the reported gunshot wound*
- *There was another wound on the chest wall which was consistent with the insertion of the IC drain.*

The permanent scars is a WPI=5%

10.3 Musculoskeletal system

10.3.1 Upper Limbs

- *Normal examination findings of the upper limbs*

10.3.2 Lower Limbs

- *Normal examination findings of the lower limbs*

10.3.3 Spine

Lumbar spine examination

- *Severe tenderness on the midline and paraspinal areas*
- *Scars as described in section 10.2 above*
- *Limited flexion and extension of the back*
- *Straight leg raise sign is positive on the left.*
- *Left buttock pain on deep palpation*
- *Loss of sensation at L4, L5 and S1 dermatomes*

10.4 Other systems findings

10.4.1 Neurological examination

- *He has no focal neurological signs.*

10.4.2 Cardiovascular examination

- *Normal cardiovascular examination findings*

10.4.3 Respiratory examination

Chest examination

- *Healed surgical scars as described in section 10.2*
- *No signs of respiratory distress*
- *Tenderness on deep palpation of the chest wall*
- *No signs of chest effusions*

10.4.4 Abdominal examination

- *Large midline abdominal scar above the umbilicus*
- *Abdominal distension due to fat*
- *Normal bowel sounds*”

[19] After discussing the 'radiological investigations', and performing an 'impairment calculation according to the [American Medical Association's] Guidelines' Dr Thikhathali sets out the "*Impact of injury on the patient's life*" as follows:

"***a) Injury diagnosis (Acute):***

- *L1 fracture*
- *Rib fractures and Hemopneumothorax*
- *Pancreatic injury and diaphragm injury*

b) Outcome diagnosis (Chronic/Permanent):

- *Healed L 1 fracture*
- *Rib fractures healed with chronic chest pain*
- *Retained bullet in the chest*

c) Pain and suffering:

Acute pain

- *The patient had severe acute pain with a severity score of VAS 10/10. The acute pain lasted more than 8 weeks. He was admitted in the hospital for some time while undergoing treatment. The pain was relieved by simple analgesia and bedrest but worsened by mobilisation.*

Chronic pain

- *The patient currently complains of chronic back pain with a severity score of VAS 6/10. This pain is worsened by bedrest and never relieved by any medication.*

d) Permanent disability/disfigurement/impairment and prognosis:

- *The patient has residual chronic chest wall pains with difficulty in breathing. The patient also has L1 fracture with residual spondylosis. The prognosis is good.*

e) Degree of dependency:

- *He has regained his full independence and mobilises without any assistive devices.*

f) Loss of earning/education capacity

- *The patient was working as a Truck driver at the time of injury. He lost his job following this injury.*

g) Activities of Daily Living (ADLS):

- *The activities of daily living have not been affected by this injury.*

h) Future medical treatment

1. Surgical management

- *The patient will benefit from removal of the remaining bullet in the chest wall.*

2. Conservative management

- *Provision should be made for monthly analgesia and anti- inflammatory medication for his chronic pain*

3. Recommendations

- *Recommendations for consultations with a Cardiothoracic surgeon in order to plan the removal of the bullet.*
- *Consultations with a psychologist is also recommended to help him with Post Traumatic Stress Disorder.*

i) Life expectancy:

- *The life expectancy is not affected.*"

[20] Dr Thikhathali sets out his "*Summary and discussions*" as follows:

"*Mr Ramashia Jack Nelson … sustained severe injuries including penetrating abdominal and bowel injury as well as Hemopneumothorax with diaphragmatic injury.*

The patient had rib fractures with a residual chronic pain and difficulty in breathing. The penetrating chest injury has healed with no residual impairments.

The L1 fracture has healed with a residual compression of the L1 vertebra and residual spondylosis of the lumbar spondylosis. The impairment score for the Orthopaedic injuries is a WPI=19%. The impairment score according to the general surgeon's assessment was a WPI=2%. This gives us a combined final Impairment score of WPI=21%.

Please refer to the General Surgeon's Medicolegal report for more details."

[21] Dr Thikhathali sets out his "*Expert opinion and conclusion*" as follows:

"*This patient was involved in a serious traumatic injury of the abdomen and chest following a gunshot injury by the police. There was a serious injury that affected the spine, rib, bowel, diaphragm and the lungs. These injuries have all left serious residual impairments.*

The presence of the L1 fracture and residual spondylosis with an associated muscle spasms of the lumbar spine have serious long-term impairments on the patient's ability to carry manual tasks.

There are residual impairment impairments related to the penetrating injuries of the abdominal organs, diaphragm and the lungs. Please refer the patient to the General Surgeon and a Cardiothoracic surgeon for further impairment assessment relating to these abdominal and thoracic injuries as well as a residual bullet fragment.

This bullet fragment will need to be removed by a cardiothoracic surgeon since it still causes respiratory pain.

This impairment score of a WPI=19% is consistent with the severity of the orthopaedic injuries sustained. The patient was also assessed by a general surgeon who gave the patient an Impairment score of WPI=2%. The final combined impairment score for this patient's injuries is a WPI=21%.

These injuries will cause serious limitations in the patient's ability to perform manual tasks.

Please refer to the General Surgeon's Medicolegal report for more details."

[22] Prof Montwedi sets out his "*opinion on injuries/damages*" as follows:

"*Claimant sustained gunshot wound to left lower chest area and the bullet is still lodged on lateral upper abdominal wall on left side. The injuries sustained were Left diaphragmatic hernia which was repaired through a laparotomy. No other intra-abdominal injuries were reported. He also had fracture left 8" rib and left haemothorax for which the chest drain was inserted. The patient recovered from this operation but since then has visited many doctors with complains of pains on abdomen but worse on the back. He is unable to bend down and as such cannot cope with any work. He has pain in the peroneal*

area and is unable to perform sexual intercourse due to perineal pain and inability to bend." (at **CaseLines, 008-6**)

[23] Under the heading "Narrative Test", Prof Montwedi states as follows:

"*The claimant sustained gunshot wound to left thoraco abdominal area for which a chest drain was inserted and according to him a laparotomy was done to repair injured intra-abdominal organs. The hospital records states that at laparotomy a left diaphragmatic hernia was found and repaired. The left rib fracture was left to heal on its own. The patient did suffer pain and needed intervention of some kind in the hospital. He should be compensated for medical expenses incurred, this cost can be obtained from treating doctors and hospital involved. He does complain of low backache which is severe enough to interfere with his normal daily activities and disturbs him from performing sexual intercourse. He has been assessed by orthopaedic expert for the back and reference should be made to this report. He qualifies for 2% whole person impairment for repaired diaphragmatic hernia according to AMA 6th edition, page 121 (6.6 Hernia). The quantum equating to this whole person impairment can be done by actuaries. This should be done in conjunction with assessment as done by orthopaedic expert.*"

[24] Ms Mabye notes the plaintiff's current physical complaints as follows: (at **CaseLines, 009-11**)

- "*Lower back pain which is exacerbated when carrying/lifting heavy items, walking and standing for long.*

- *Abdominal pain.*
- *Difficulty sitting upright due to pain on the left buttock.*
- *Left ribs pain.*
- *Pelvic pain.*
- *Cramps on the lower limbs.*
- *Emesis frequently.*"

[25] Ms Mabye states that the plaintiff reported that prior to the incident he used to go to parks, fishing and travel with his family. Currently he has difficulty due to the pains he experiences as a result of the incident in question. Post the incident the plaintiff reported that he just sits at home and does nothing. Under the heading loss of amenities, Ms Mabye states that: "*Mr. Ramashia has suffered loss of amenities as a result of the incident. He experiences difficulty in performing activities of daily living which requires walking, standing and carrying/lifting heavy items due to injuries sustained.*"

[26] I do not intend to deal with each and every expert report but shall allude thereto in dealing with the findings that I make, where necessary. I deal with each head of damage sequentially.

Medical expenses – past and future

[27] Counsel for the plaintiff submitted in heads of argument that the plaintiff had "*… incurred past medical expenses amounting to R67 784.69."* I agree with

the submission of counsel for the defendant that there is no evidence in support of this loss at all. This claim cannot be granted.

[28] Regarding the plaintiff's claim under the heading "*Future Medical, Hospital and Related Expenditure*", counsel for the plaintiff submits that "*[f]uture medical needs are estimated at R400,000.00 (per actuarial projection), including occupational therapy, assistive aids, pain management, and potential specialist follow-ups.*" The plaintiff applies a 20% contingency deduction[6] thereto and submits that an order in the sum of R320,000 ought to be granted in respect of future medical needs. (***Plaintiff's heads of argument, par 6.1***)

[29] However, future medical needs are not estimated in the actuarial calculation at R400,000.00, but rather, as pointed out by counsel for the defendant, at R160,410. (**CaseLines, 011-8**) Further, contrary to the submissions of counsel for the plaintiff, amounts in respect of occupational therapy sessions are included by the actuary in the table – this is the first item in the table – and the table includes all of the items referred to in the report of Ms Mabye at paragraph 18.2. (**CaseLines, 009-24**)

[30] The parties are agreed that a 20% contingency deduction ought to be applied. Whilst it is possible to apply a different contingency amount to each of the 18 items in the table formulated by the plaintiff's actuary, the parties' application of a 20% contingency deduction across all of the items is a pragmatic

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[6] "*Contingencies discount the vicissitudes of life and it is a method used to arrive at fair and reasonable compensation. …*" - **Honono v Road Accident Fund** (4436/2020) [2025] ZAFSHC 43 (10 January 2025) par [46]

approach. The contingency is justified for *inter alia* the following reasons: a number of items referred to in the table which have a replacement frequency attached to them may not require replacement as often as is set out; there is a possibility that the plaintiff may not live for the entire duration of the period for which provision has been made; there is a chance that the plaintiff may elect not to purchase certain items *et cetera*.

[31] The plaintiff is entitled to an order in respect of his claim under the heading "*Future Medical, Hospital and Related Expenditure*" in the sum of R128,328.00 (R160,410 less 20% = R128,328.00).

Loss of Earnings

[32] Ms Mabye states the following under the ehading "Residual work ability":

"*During physical evaluation it was noted that Mr. Ramashia was unable to meet the physical requirements for any kind of work from sedentary, light, medium, heavy, to very heavy type of work category. He experiences severe pains on the lower back and abdomen. The writer notes and concurs with the statement by Prof. Motwedi (General surgeon) He is unable to bend down and as such cannot cope with any work.*

It was also noted that he is unable to stand and sit upright for long due to lower back pain. He was unable to stoop squat and crouch, he loses balance. …
The writer concludes taking into consideration all the findings of the Occupational Therapy assessment together with all other experts' findings that

Mr. Ramashia is fully and totally incapacitated by the incident. The incident in question has negatively impacted the claimant's financial security and ultimately altered with his future."

[33] The defendant accepts that the plaintiff lost his work as a result of the injuries sustained in the incident, and that *"… the court should accept the opinion of the experts that his job loss is justified because of the sequelae of the accident.*" (***Defendant's heads of argument, par 59***) I agree.

[34] The defendant's counsel refers to the plaintiff's actuary's calculation (before application of continencies) and points out that the loss "*… is calculated at **R2 927 386**, comprised of:*

a. *A past loss of **R2 101 479***

b. *A future loss of **R825 907***"

[35] The actuary sets out the loss in table form as follows:

	Uninjured Income (R)	**Injured Income (R)**	**Loss (R)**
Past loss	**2 173 122**	71 643	
Past Contingencies	-	-	
Net	**2 173 122**	**71 643**	**2 101 479**
Future loss	825 907	-	
Future Contingencies	-	-	

Net	**825 907**	**-**	**825 907**
Total Loss			**2 927 386**

[36] In argument, the defendant takes no issue with the calculation of the loss but submits that "*[it] is proper to adjust the contingencies to the peculiar facts of this particular case…*" (***Defendant's heads of argument, par 50***) and submits that the appropriate contingency deduction for past loss is 5% and for future loss of earnings is 25%.

[37] The defendant submits that applying the contingencies the loss ought to be R2 615 856, and the correct calculation is as follows:

	UNINJURED EARNINGS	**INJURED EARNINGS**	**LOSS OF EARNINGS**
PAST INCOME	**R2 173 122**	**R71 643**	
Less: Contingencies (5% & 5%)		**0,00**	
	R2 064 476	**R68 060.85**	**R1 996 426**
FUTURE INCOME	**R825 907**	**0,00**	
Less Contingencies at 25%	**R619 430**	**0,00**	**R619 430**
TOTAL LOSS			**R2 615 856**

[38] In argument, counsel for the plaintiff submitted that the court ought to accept the contingencies as advanced by the defendant, and that the plaintiff accepts the defendant's calculation of damage in the sum of R2 615 856 for loss of income, past and future. Whilst it may argued that a higher contingency could be applied to past loss (due to the significant period and contingencies for possible interruption in work and other events) and a lower contingency in respect of future income (the plaintiff being only four years away from retirement age currently), the plaintiff agreed to the calculation put forward by the defendant and accepted the sum of R2,615,856 in respect of loss of income.

[39] Accordingly, damages in respect of loss of income shall be awarded in the sum of R2,615,856.

General Damages

[40] In the respective heads of argument, with reference to general damages, counsel for the plaintiff submitted that an award of R1,800,000 was appropriate whilst counsel for the defendant submitted that an award of R700,000 was fair and reasonable.

[41] Both counsel referred me to various cases with regard to the quantum to be awarded in respect of general damages.

[42] The majority of the cases relied upon by counsel for the plaintiff are distinguishable and of little assistance in the present matter. In this regard,

counsel for the plaintiff refers in heads of argument to a number of cases where the plaintiff was paralysed and rendered a paraplegic. I agree with the submission of counsel for the defendant that such cases are not comparable with the present matter.

[43] Past awards in comparable cases serve as a useful guide in determination of general damages. However, the cases must be comparable. (**MEC for Health, Gauteng Provincial Government v AAS obo CMMS** (401/2023) [2025] ZASCA 91 (20 June 2025) (the "**MEC for Health case**") par [50]) If not, reliance thereon serves to confuse rather than assist.

[44] In assessing an award for general damages, the court has a broad discretion to award what it considers to be fair and adequate compensation. (**Ambrose v Road Accident Fund** (255/09) [2010] ZAECPEHC 24 (1 June 2010) par [48]) The award must be fair to both sides. The court must give 'just compensation' to the plaintiff.

[45] A claim for general or non-patrimonial damages requires an assessment of the plaintiff's pain and suffering, disfigurement, permanent disability, and loss of amenities of life and attaching a monetary value thereto. (**Mashigo v Road Accident Fund** (2120/2014) [2018] ZAGPPHC 539 (13 June 2018) par [10]) When compensating for general damages, the court attempts to compensate, as best as it is able to, for the aforesaid non-patrimonial losses. There are different elements to be assessed in the overall assessment, for example: "'*Pain and suffering' refer to: (a) the physical discomfort due to the injury itself or its consequences, including the discomfort caused by any medical treatment which one might have to undergo, and (b) the mental or emotional*

distress which a person may experience because of the injury. Loss of amenities of life, on the other hand, refers to, among others, the deprivation of the ability to do the things which before the accident a claimant was able to enjoy, and to prevent full participation in the normal activities of life." (**MEC for Health case** par [52] (footnotes omitted)) The plaintiff's claim for general damages is "*…in respect of pain, suffering and discomfort, emotional shock and trauma, loss of enjoyment and of the amenities of life, disfigurement and non-pecuniary aspect of disability.*" (**Amended particulars of claim, par 10**)

[46] With regard to the plaintiff's general damages, and without derogating from the totality of the relevant facts, the following *inter alia* is relevant:

a. At the time of the incident the plaintiff was 42 years old. He is currently 61 years old.
b. He sustained gunshot wounds to the scalp and to the left side of the back which penetrated and injured the abdomen and chest, fracturing the tenth rib.
c. The plaintiff had to undergo a laparotomy to find and repair a left diaphragmatic hernia.
d. The plaintiff had severe acute pain with a severity score of VAS 10/10. The acute pain lasted more than 8 weeks.
e. He was hospitalised for two weeks undergoing further management and went to theatre on two occasions.
f. The plaintiff now has a fear of the police.
g. The plaintiff has various scars (as addressed in the expert reports).

h. In respect of his lumbar spine, the plaintiff has tenderness on the midline and paraspinal areas, limited flexion and extension of the back, left buttock pain on deep palpation, and loss of sensation at L4, L5 and S1 dermatomes.

i. Almost two decades after the incident the plaintiff still has difficulty in drinking fluids and eating, in performing manual tasks and engaging in sexual intercourse, and sitting on his right buttock.

j. The plaintiff currently complains of chronic back pain with a severity score of VAS 6/10. This pain is worsened by bedrest and never relieved by any medication.

k. The plaintiff has residual chronic chest wall pains with difficulty in breathing.

l. There is still a bullet lodged in the plaintiff.

m. The plaintiff no longer goes to parks, fishing or travelling with his family due to the pain he experiences as a result of the incident in question.

n. The plaintiff has suffered loss of amenities as a result of the incident. He experiences difficulty in performing activities of daily living which require walking, standing and carrying/lifting heavy items due to the injuries sustained.

[47] As indicated already, counsel for the defendant submits that the sum of R700,000 is fair and reasonable in respect of general damages. Counsel for the defendant referred me to various cases to support her argument that the aforesaid sum is fair and reasonable, the majority of which had a lower present-day value than R700,000. The one matter to which I was referred by counsel for the defendant with a higher present-day value is the matter of

Ramolobeng v Lowveld Bus Services (Pty) Ltd and Another (29836/09) [2015] ZAGPPHC 31 (3 February 2015) ("**Ramolobeng case**"). The Ramolobeng case, a case involving injury sustained in a motor vehicle (bus) collision, was also decided on the basis of a stated case. In the Ramolobeng case the plaintiff suffered *inter alia* "*… injuries to the cervical and lumbar spine and a head injury with concussion.*" (par [4]) Counsel for the defendant submitted that the plaintiff in that matter was awarded R550,000 in 2015, which in present-day value is R895,535.71. The periods of hospitalisation in that matter were considerably longer than *in casu*, and there were further procedures and injuries that are not applicable in the present matter. In my view, the plaintiff *in casu* is entitled to a lower award than in the aforesaid case.

[48] I have considered earlier awards. In my view, with reference to the relevant facts in the present matter, the submission on the part of counsel for the defendant that a sum of R700,000 in respect of general damages is fair and reasonable in the present matter is correct.

Costs

[49] Costs ought to follow the result.

[50] Both partes submitted that the matter was of some complexity and that costs of counsel to be taxed on Scale B is warranted. In view of the totality of the facts and the relevant considerations in terms of uniform rule 67(A)(3)(b), my view is that scale B is appropriate.

ORDER

[51] Accordingly, I make the following order:

1. The defendant is ordered and directed to pay the plaintiff the sum of R3,444,184.00 (three million, four hundred and forty four thousand, one hundred and eighty four rand), within 30 days of date of this order, such sum comprising the following heads of damages:

    1.1. R128,328.00 in respect of future medical expenses;

    1.2. R2,615,856.00 in respect of past and future loss of income;

    1.3. R700,000.00 in respect of general damages.

2. The defendant shall pay interest on the above amount calculated at the rate of 10.75% per annum from date of judgment until date of final payment.

3. The defendant shall pay the plaintiff's party and party costs, on the High Court tariff, which costs shall include the following:

    3.1. The reasonable preparation, qualification, reservation and attendance fees, if any, of the plaintiff's experts whose reports have been furnished to the defendant, such experts being:

        3.1.1. Dr ND Thikhathali – Orthopaedic Surgeon;

3.1.2. Prof OD Montwedi – General Surgeon;

3.1.3. Ms KP Mabye – Occupational Therapist;

3.1.4. Ms K Rakgokong – Industrial Psychologist;

3.1.5. Mr IB Karidza – Actuary;

3.1.6. Dr Malevu – Radiologist;

3.1.7. TJ Mufamadi – Occupational Therapist;

3.1.8. Dr M Radzilani – Orthopaedic Surgeon.

3.2. Counsel's fees, to be taxed on Scale B.

WOODROW AJ

ACTING JUDGE OF THE HIGH COURT

This Judgment was handed down electronically by circulation to the parties and or parties' representatives by e-mail and by being uploaded to CaseLines. The date and time for the hand down is deemed to be 10h00 on the 16TH of September 2025.

Appearances

Counsel for the Plaintiff: V Mukwevho
Attorney for the Plaintiff: Mphaphuli R Attorneys

Counsel for the Defendant: B Nodada
Attorney for the Defendant: State Attorney, Pretoria

Date of Hearing: 13 June 2025
Date of Judgment: 16 September 2025