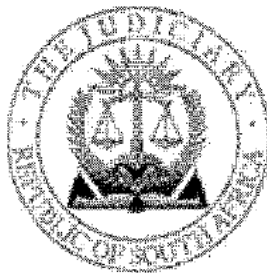
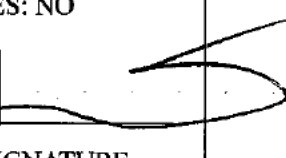


REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

Case No: 2021/30859

DELETE WHICHEVER IS NOT APPLICABLE	
REPORTABLE: NO	
OF INTEREST TO OTHER JUDGES: NO	
REVISED: YES	 
13/10/2025	
DATE	SIGNATURE

IN THE MATTER BETWEEN:

MASHELE, HORISANI DON

PLAINTIFF

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

MOSTERT AJ

1. In this matter I handed down an Order on the 5th of September 2025. In the Order I dismissed the Plaintiff's claim for past and future loss of earnings and earnings capacity. I also did not award any costs to the Plaintiff for the appearance in the RAF Defaults Court for the week of 2 September 2025.
2. What follows are my reasons for the conclusion.
3. According to the Plaintiff's Particulars of Claim on or about 29th of July 2019 and at the intersection of Glenhove Road and Cecil Street in Melrose Estate Johannesburg a collision occurred between a motor vehicle ("the insured motor vehicle") and a certain BMW motorcycle which motorcycle was being ridden by the Plaintiff at the time.
4. The allegation is made in the Particulars of Claim that the motor vehicle collision took place as a result of the sole and exclusive negligence of the insured motor vehicle.
5. After the service of the Summons it does not appear as if the Defendant filed any documents.
6. The matter was set down for hearing in the RAF Default Judgment Court for the week 2 September 2025.
7. At the outset the Plaintiff applied in terms of the provisions of Rule 38(2) that the evidence of the Plaintiff's experts be proved into evidence by means of sworn affidavits. This application was duly granted.

8. This Court accepted that the merits of the Plaintiff's claim be awarded 100% in favour of the Plaintiff and accordingly that the Defendant be liable for 100% of the Plaintiff's proven damages.
9. The issue of the Plaintiff's entitlement to general damages (if any) was separated from the balance of the Heads of Damages and in accordance with the provisions of Rule 33 (4) was postponed sine die.
10. All that remained was the Plaintiff's claim for past and future loss of earnings and earnings capacity. In the Heads of Argument, the Plaintiff claimed an amount of R3 181 061,00 in respect of past and future loss of earnings and earnings capacity.
11. Of importance in the evaluation of any delictual claim is whether there is causal link between the injury suffered and the loss claimed. See in that regard Visser & Potgieter The Law of Damages Third Edition page 49: **"It must be decided on the available evidence as well as on the basis of human knowledge and experience whether the harmful consequences resulted from the event in question."**
12. The Plaintiff's orthopaedic surgeon, Dr. Read, compiled a medico legal report after having assessed the Plaintiff on the 5th of March 2025. He had access to the Plaintiff's medical records and particularly the RAF1 form.
13. The injuries suffered by the Plaintiff were the following:
 - 13.1 A right distal radius fracture.

- 13.2 A left comminuted distal radius fracture.
- 13.3 Abrasion and swelling of the right foot.
14. In layman's terms the first two injuries can be described as a broken left and right wrist.
15. According to the medico legal report the Plaintiff was employed at the Standard Bank at the time of the accident as an accounts manager. Following the accident the Plaintiff remained off work for a period of three and a half weeks. He subsequently resigned from Standard Bank in 2023. The reason for this was not accident related.
16. At present the Plaintiff is involved in farming crops such as soybean and maize. He is still expanding his farm and enterprise. He has four employees working for him. He notes that he is unable to do certain activities that he previously would have been able to do such as driving a tractor.
17. His present conditions and complaints are mainly pain related for which he buys over the counter medication which he takes twice daily.
18. According to Dr Read, the Plaintiff's wrists appear normal. He concludes that it appears that a good surgical outcome has been achieved in relations to his left wrist. He also has a good range of motion in regard to his right wrist.

19. The function of the Plaintiff's hands was tested by means of a power grip. According to Dr Read, the Plaintiff has normal hand function although grip strength is slightly reduced in the left wrist.
20. In terms of future treatment, Dr Read concluded that the treatment of the left fracture is good. With regards the left wrist, the Plaintiff may in future require reconstructive surgery to his left wrist which may include localized fusions and the like. He concluded that the prognosis in that regard is guarded.
21. He concluded that such costs be covered by a meaningful undertaking by the RAF which in the instant case has been provided.
22. Dr Read concludes further that the Plaintiff is unsuited to working in the agricultural industry as a farmer as a result of him being compromised by weakness in his wrist. The need for some reasonable accommodation when performing light work and the consequent ongoing loss of productivity in the region of 30% is acknowledged. He is better suited to semi-sedentary occupation that does not place undue stress on his wrists and does not require physical labour.
23. The rest of Dr Read's medical legal report deals with issues that are relevant insofar as the Plaintiff's claim for general damages is concerned.
24. The Plaintiff also presented evidence of an occupational therapist named Kim Kaveberg. She examined the Plaintiff on the 21st of January 2025.

25. Based on certain tests that she carried out on the plaintiff she concluded that there was no degree of impairment on his left or right hand in terms of manual dexterity. In terms of grip strength, he was mildly impaired on the left hand and on the right hand there was no limitation.
26. In terms of lifting and carrying weights the Plaintiff had no limitation.
27. She further concluded that grip strength of the left hand was mildly impaired, waist to floor lifting restricted to the medium physical demand category and carrying restricted to the medium physical demand category.
28. In terms of the Plaintiff's education history he matriculated in 2003 then he studied a B.Com in Economics at the University of Pretoria. He was employed at the Standard Bank in 2008 and remained there until 2023 where he worked in various roles such as finance, account management and risk management.
29. Based on his pre-accident role as an account manager at Standard Bank it fell in sedentary light physical demand category.
30. Based on his description as a farmer he falls in the light and medium physical demand category with occasional heavy and very heavy demands when lifting and carrying seeds and fertilizer.
31. In paragraph 14.5 of her report (caselines 10-63) Kaveberg concludes that based on his presentation in the assessment he is able to cope with the tasks

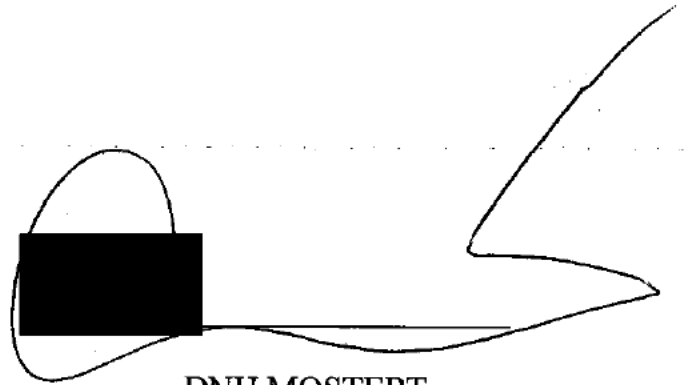
that fall in the medium demand category, but is expected to struggle and rely on staff for tasks that exceed his capacity. It is likely that he requires additional staff which may affect the profitability of his business.

32. A further witness utilized by the Plaintiff was Talia Talmud, an industrial psychologist . Talmud stated that at the time of the accident the Plaintiff's annual salary was R1 102 494,00.
33. The plaintiff complained to Talmud that the only effect of the accident on his salary at Standard Bank was a possible impact on his annual bonus. Talmud concludes that the bonus is variable and there are numerous factors that could have contributed to the reduction in his bonus, however Talmud suggests that the decrease is partially attributable to the accident.
34. Plaintiff started his own farming business in 2020 i.e. whilst he was still employed at the bank and also after the accident. He appointed someone to manage the day to day operations of the farming business. He did not draw an income during the period and all earnings were reinvested to grow and support the business. He only became fully involved in the business following his resignation in 2023.
35. The Plaintiff also utilized the evidence of Mr. Loots, the actuary, to try and establish loss, both past and future. Loots' calculation was a standard one based on the evidence and conclusions of the other experts. He did not concern himself with the issue of causation.
36. The following facts are clear:

- 36.1 That the plaintiff was on a solid career path at the Standard Bank when the accident occurred.
- 36.2 That the plaintiff out of his own volition and with a view to realize his passion for farming voluntarily resigned from the Standard Bank to pursue his farming operation.
- 36.3 Assuming that he is not able to carry out all the functions of a farm labourer (which he would not have done in any event as he is the owner of the business), no evidence has been presented by the plaintiff of the additional expenses alternatively additional losses that the plaintiff endured as a result of the motor vehicle collision.
- 36.4 No evidence was presented by an accountant of the loss Plaintiff potentially suffered as a result of his broken wrists. This could have included financial evidence as to the additional labour he employed because he could not carry out all the tasks on the farm that was required.
37. In my view the plaintiff has failed to prove on a balance of probabilities that the amounts that he claimed for past and future loss of earnings and earnings potential occurred as a result of the motor vehicle collision. There is no proof that the injuries that Plaintiff sustained gave rise to pecuniary loss.

COSTS

38. Due to the fact that the Plaintiff was not successful in claiming loss of past and future loss of earnings and earnings potential from the Defendant, the Plaintiff is not entitled to costs for the week of 2 September 2025. However, the Plaintiff's costs that he incurred for his legal team as well as his legal experts are not lost as such costs are reserved for decision by the Court hearing his claim on general damages.

A handwritten signature in black ink, consisting of a large, stylized loop on the left and a long, sweeping line extending to the right, ending in a sharp point.

DNH MOSTERT
ACTING JUDGE OF THE
HIGH COURT
JOHANNESBURG

This Judgment is handed down electronically by circulation to the Plaintiff's Legal Representative and the Defendant by email, publication on Case Lines. The date for the handing down is deemed 10 October 2025

Date of appearance: 2 September 2025

Date Judgment delivered: 10 October 2025

Appearances

For the Plaintiff: Adv N Makopo

Instructed by: Levin Tatanis Inc

For the Defendant: Ms Moyo / Ms Booyens (RAF State Attorney)