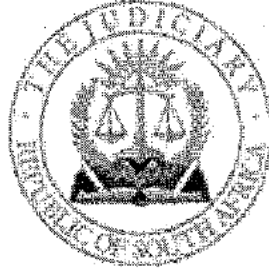


REPUBLIC OF SOUTH AFRICA



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

Case No: 132791/2023

DELETE WHICHEVER IS NOT APPLICABLE
REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED: YES

13/10/2025
DATE

SIGNATURE

IN THE MATTER BETWEEN:

KRUGER, N

PLAINTIFF

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

MOSTERT AJ

1. The Plaintiff was involved in a motor vehicle collision driving his motorcycle on the 21st of November 2021. The Plaintiff made the allegation that the collision occurred as a result of the sole and exclusive negligence of the driver of the oncoming motor vehicle with which his motorcycle collided.
2. The Plaintiff issued a Summons which the Defendant defended however the Defendant failed to file a Plea after having placed on terms to do so.
3. According to the Particulars of Claim the Plaintiff suffered the following bodily injuries:
 - 3.1 A fracture to his right ankle
 - 3.2 A right knee injury
 - 3.3 A left shoulder injury
 - 3.4 A low back injury
4. The matter came before me in the RAF Default Judgment Roll the week of 2 September 2025.
5. On the 5th of September 2025 I handed down an Order. What follows are my reasons for the Order with particular emphasis on the Plaintiff's claim for past loss of earnings as well as the Plaintiff's claim for future loss of earnings and earnings capacity / potential.

6. At the hearing of the matter the Plaintiff brought an application in terms of the provisions of Rule 38(2) to allow evidence of the Plaintiff as well as the Plaintiff's expert on affidavit. This application was granted.
7. The merits of the Plaintiff's claims are in favour of the Plaintiff. I concluded that the Defendant shall be 100% liable for the Plaintiff's proven damages.
8. At the hearing of the matter the only issue in dispute was the Plaintiff's past and future loss of earning or earnings potential.
9. The Plaintiff disclosed that he was previously involved in a motor vehicle collision on the 18th of March 2019 for which he pursued a claim against the Defendant. The Plaintiff's attitude was that whatever was left of such previous accident claim would be rolled over into this claim and would only be pursued as parts of this claim.
10. The Plaintiff attained the highest academic qualification of grade 9 in 2016.
11. The Plaintiff employed various experts. Dr. J H Versveld is the orthopaedic surgeon. He listed the complaints of the Plaintiff such as that his neck is sore in cold weather and when he does hard work, when he picks up heavy items he gets a pain in his neck, his neck pulls his head backwards and he sees double, if he sits for long periods of time watching television he has a pain in the back of his neck.

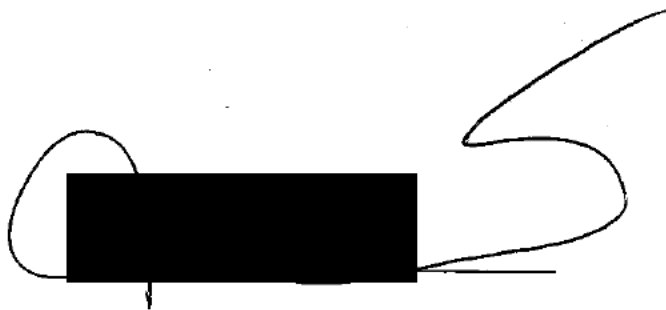
12. When his shoulder starts paining, his whole arms starts burning and he gets pins and needles and loss of feeling in his hand which lasts for approximately 20 minutes. He loses feeling in his hands and drops things, his right hand is weaker than before.
13. Following his second accident he went off work for approximately three months and then had another period off of approximately one month. He then worked for four to five months but was told that he was not doing his work properly and that he needed to get better as he was not working effectively. He has not worked since.
14. Dr J H Versveld concluded that it would be reasonable to make provision for the treatment of his cervical spine symptoms such as the taking of anti-inflammatory agents, physiotherapy, the wearing of a cervical collar facet blocks and visits to an orthopaedic surgeon. It is clear from the doctor's recommendation that the Plaintiff's spinal symptoms can be treated (Case line 04-21).
15. Similarly, his right ankle's symptoms can be treated by means of taking of anti-inflammatory agents, physiotherapy, the wearing of an ankle support and visits to an orthopaedic surgeon. By the same token the Plaintiff's left knee symptoms can also be treated.
16. The doctor concludes that the Plaintiff's injuries pass the narrative test for a serious injury assessment.

17. The doctor concludes that his symptoms and disabilities have rendered him unfit for his normal work and have resulted in him being seriously disadvantaged for work on the open labour market, with the result that he is unlikely to gain or retain employment on the open labour market.
18. The Plaintiff also made use of occupational therapist Messrs Rosslyn Bennie & Catherine Rice as experts.
19. In the interpretation of the tests that they conducted on the Plaintiff they concluded that the Plaintiff has the ability to safely handle light loads in all plains and higher range medium loads below waist height.
20. The Plaintiff's performance in manual handling tasks was limited by his pain threshold. However, he exerted maximal effort within the constraints of his pain experience, confirmed by physiological indicators including respiration changes.
21. At the time of the first accident the Plaintiff worked as a salesperson. He sold solar panels with a light attached as well as Wi-Fi cameras. He transported these on his back in a backpack whilst riding his bicycle in the industrial areas.
22. On analysis of his work according to the occupational therapist, his work could have been considered work of a light physical demand (Case lines 04-66). This was prior to his second accident.

23. They concluded that the outcome of the occupational therapy assessment found that Plaintiff is not suited to the heavy or very heavy load handling demands of a position of a mechanic.
24. The Plaintiff instructed Munro Forensic Actuaries who conducted a report on the 29th of July 2025.
25. In calculating the loss of past earnings (from date of second accident up to 1 September 2025 in paragraph 4.3 of his report (Case lines 04-129)), the actuary has made a contingency adjustment uninjured 5% and 25% on past and future earnings respectively and 35% on future earnings.
26. I am of the view that the allowance for contingencies should be much higher than proposed by the actuary. The Plaintiff has a low level of education. The Plaintiff would have always remained in the lower level of earning potential. The Plaintiff would have faced extended periods of unemployment by reason of his qualification. This is not attributable to the accidents alone but was the Plaintiff's reality premorbid.
27. The proposition by the actuary that from August 2028 the Plaintiff would have had no further earnings is also not realistic and unacceptable. Even if the actuary is correct such lack of further earnings not attributed to the accident but is based on the Plaintiff's premorbid earning potential.
28. The Plaintiff's counsel made the submission during argument that the Plaintiff is practically unemployable. This proposition is not accepted

particularly insofar as the actuary's calculation of future income for 40 years of future life is concerned namely the sum of R124 410,00 and that such limitation is due to the Plaintiff's injuries that he suffered in the accidents.

29. The Plaintiff claimed R499 660,00 for past loss of earnings and R2 807 640,00 for future loss of earnings.
30. Based on the contingencies of the case I believe that R271 360,00 is appropriate for past loss of earnings and R1 571 993,00 for future loss of earnings.

A handwritten signature in black ink, consisting of a large, stylized 'M' shape with a loop at the top and a long horizontal stroke at the bottom.

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 13 October 2025

Date of appearance: 3 September 2025

Date Judgment delivered: 13 October 2025

Appearances

For the Applicant: Adv. D Grobbelaar

Instructed by: Mills & Groenewald

For the Respondent: Ms Moyo / Ms Booysens (RAF State Attorney)