IN THE HIGH COURT OF SOUTH AFRICA

MPUMALANGA DIVISION, MBOMBELA MAIN SEAT

JUDGMENT

Case No.: 2243/2023

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: **NO**	
(2) OF INTEREST TO OTHER JUDGES: **NO**	
(3) REVISED **YES/NO**	
29 January 2026	NGWENYA AJ
DATE	SIGNATURE

In the application between:

MCOLISI RECHARD SHONGWE **PLAINTIFF**

And

ROAD ACCIDENT FUND **DEFENDANT**

JUDGMENT

NGWENYA AJ

INTRODUCTION

[1] The plaintiff is suing the Road Accident Fund ("Fund") for damages resulting from injuries sustained in an accident in which he was a passenger.

[2] The particulars of claim record that the accident took place on the 08th of February 2022, whereas during the trial, the plaintiff testified that it took place on the 9th of February 2022. The plaintiff was taken and admitted to Medi-Clinic in Nelspruit. According to the hospital records, the plaintiff was admitted on the 9th of February 2022. Therefore, the correct accident date is the 9th of February 2022.

[3] According to the hospital records, the plaintiff complained of the following:

> *" Patient was involved in an MVA on duty around 17h30 today, complaining of chest pain, pain on left leg and headache worse on right side."*

[4] Furthermore, the hospital records indicate that the plaintiff was discharged the next day, in the early morning, on the 10th of February 2022:

> *"Patient referred and discharged with take-home medication script, no abnormalities noted, condition is clinically stable, patient's employer called to fetch patient and bring his clothes along."*

[5] In his section 19(f) affidavit stated that he sustained soft tissue injury on the head and chest. This statement is found at paragraph 3 of the affidavit and reads thus:

> *"As a result of the accident, I sustained soft tissue injury to the head and chest. I was taken to Medi-Clinic private hospital for medical treatment."*

[6] At the beginning of the trial, I was informed that the matter would proceed only on the issue of future loss of income. The question of damages has been deferred.

[7] I am therefore called upon to determine the following issues:

7.1 The exact nature of the sequelae of the injuries sustained, and

7.2 The computation of the future loss of income.

The sequelae of the injuries

[8] I have already outlined how the plaintiff's injuries are documented in the hospital records and in his Section 19(f) affidavit.

[9] During the trial, the plaintiff testified that he suffered head and chest injuries and stayed in the hospital for one week. The one-week hospital stay is false; the hospital records indicate he was discharged the following day. The neurosurgeon's report also confirms that the plaintiff was discharged the next day after admission.

[10] Under cross-examination, he was asked about his section 19(f) affidavit, where it is recorded that he suffered soft tissue injuries. He replied that he did not know the meaning of soft-tissue injury. But insisted that the injury is still there.

[11] I need to mention that the plaintiff did not explain in detail the type of injuries he suffered.

[12] I now proceed to outline how the experts, i.e., the neurosurgeon, orthopaedic surgeon, and occupational therapist, recorded the injuries and their effects on the Plaintiff.

[13] The neurosurgeon, Dr Mkhonza, under the current complaints recorded that :

13.1 The plaintiff complained of a headache on the left side of the head at least twice a week and uses grandpa to alleviate the pain. This is in contrast to the hospital records, which noted right-sided pain.

13.2 The plaintiff suffers from forgetfulness.

13.3 The plaintiff is short-tempered and irritable due to the accident. Previously, he was calm and patient.

13.4 The plaintiff suffers from a painful left chest that gets worse in winter or cold weather and struggles to lift heavy objects on his left side.

13.5 The plaintiff experiences left leg pain and struggles to walk long distances.

[14] Under motor systems, Dr Mkhonza recorded that :

14.1 The plaintiff's posture is normal.

14.2 The plaintiff's muscle bulk is symmetrical and normal in all muscle groups.

14.3 The plaintiff has abnormal movement noted.

14.4 The plaintiff's tone is normal (2+).

14.5 The plaintiff's power is normal (5/5) in all limbs.

14.6 The plaintiff's reflexes are normal.

14.7 The plaintiff's coordination is normal.

[15] In conclusion, Dr. Mkhonza found that the plaintiff suffered mild traumatic brain injury (concussion) and soft tissue injuries to the chest and left leg. According to the report, this is known as persistent post-concussive symptoms and that there is no specific treatment as this condition can resolve itself within a few weeks or months, except in the most severe cases. The plaintiff's case is not such a case; otherwise, the report would have expressly stated this fact. He then suggested psychotherapy and pain medication.

[16] The orthopaedic surgeon, Dr Masipa, under injuries sustained, recorded that:

16.1 The plaintiff suffered a chest and head injury as recorded in the RAF form. Head and chest injury as reported by the patient(plaintiff). And according to medical records (hospital records), the plaintiff suffered blunt trauma.

16.2 Under the present main complaints, Dr Masipa recorded that the plaintiff's complaints are chest pains aggravated by physical exertion and lifting of heavy objects. And further recorded that the plaintiff suffers from headaches and memory loss.

[17] Under the upper limbs, Dr Masipa recorded that:

17.1 No abnormalities detected.

17.2 Shoulder flexion and extension were normal, including elbow and wrist function, and fingers.

[18] Under lower-limps, he recorded that:

18.1 There was no deformity.

18.2 Muscle power is 5/5.

18.3 Reflexes were normal.

18.4 Sensation was intact

18.5 Range of motion was normal.

[19] Dr Masipa's conclusion is that the plaintiff suffered acute pain for about 2 weeks following his injuries. He recommended that the pain can be managed with pain medication and anti-inflammatories. Regarding occupation and employability, Dr Masipa opined that the plaintiff's condition will improve with the recommended treatment (i.e., pain medication and anti-inflammatories); he deferred this question to the occupational therapist and industrial psychologist for full comment.

[20] The Occupational Therapist, Dr Molemi, did a physical evaluation of the plaintiff and put the plaintiff through some exercises and recorded that:

20.1 As regards upper limbs, she found that the plaintiff demonstrated functional strength and a full range of movement in both upper limbs and

all joints. No accident-related limitations were noted in this regard, and no reports of pain were made during physical screening.

20.2 With regard to lower limbs, the plaintiff presented with functional strength and a full range of movement of both lower limbs and all joints. No accident-related limitations were noted in this regard, and no report of pain was made during physical screening

20.3 The occupational therapist concludes that the plaintiff's work rate is 90% and meets the standards of the open labour market. He further mentioned that the plaintiff was able to carry loads of 7.5kg for a short distance of 8 metres. However, he reported chest pain. He ends by saying that the physical, cognitive and psychological functioning following the injuries has been negatively affected to the extent that the plaintiff is no longer suited for heavy work. This is not supported by the available evidence, as shall become apparent hereunder.

[21] The crucial concerns in this case are the plaintiff's agility and strength, and whether they will be affected in the long term. According to all the experts, the plaintiff has the necessary strength and agility, as the accident did not cause any permanent impairment. The occupational therapist concluded that the Plaintiff demonstrated full functional strength and a full range of movement in both upper and lower limbs, and that there were no accident-related limitations.

[22] The question is what is to be made of the chest pain, of which the plaintiff said he felt after lifting some heavy objects during the assessment with the occupational

therapist. None of the experts has located the cause of the chest pains. In fact, the most recorded complaints are the pain regarding headaches, which are managed by Grandpa twice a week. The evidence shows that the plaintiff suffered soft tissue injuries on his chest and that there was no permanent damage to the chest bone structure, so as to cause permanent damage.

[23] To corroborate this, none of the experts recommended further chest treatment for the plaintiff. It is therefore clear that the injuries of the plaintiff were minor, and that is confirmed by the fact that he spent a few hours in the hospital, as he was admitted late in the evening on the 09th of February 2022 and discharged the next day in the morning.

[24] In addition, the plaintiff returned to his workplace and performed the same tasks. During the evidence, he testified that he was accommodated, but there was no evidence substantiating that claim. His salary did not decrease; in fact, it increased. I also need to mention that the plaintiff's testimony had many discrepancies; for instance, he stated that he stayed in the hospital for a week. Hospital records show that he stayed for hours. Furthermore, he mentioned that it took him a month to recover and return to work. However, according to Dr Molemi's report, it took him 7 days to recuperate. Lastly, he testified that he was retrenched following the injuries. But there is no proof, in fact, Dr Molemi's report records that he was still employed at the same place.

[25] In the premises, I find that the Plaintiff has failed to make out a case for future loss of income.

[26] In the premises, I make the following order:

1. The plaintiff's claim regarding future loss of income is dismissed.
2. The Plaintiff is ordered to pay the Defendant's costs on High Court scale A.

T S NGWENYA AJ

ACTING JUDGE OF HIGH COURT,

MPUMALANGA, MBOMBELA

Date of hearing: 05 June 2025

Date of judgment: 29 January 2026

Counsel for the Plaintiff:	Adv P Tshavhungwe
Instructed by:	Ngomana & Associate Attorneys
Email Address:	mvanst1@ngomana-attorneys.co.za

Counsel for the Defendant:	Adv M Ndubani
Instructed by:	State Attorney
Email Address:	fulufhelos@raf.co.za