

REPUBLIC OF SOUTH AFRICA



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

Case No: 114622/2023

DELETE WHICHEVER IS NOT APPLICABLE
REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED: YES

27/1/2026

DATE

SIGNATURE

IN THE MATTER BETWEEN:

LEBESE, KGOTSO BASI

PLAINTIFF

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

MOSTERT AJ

1. In this matter I handed down an Order on the 5th of September 2025. Some four months later the Plaintiff filed a Notice in terms of Rule 49 (1)(a)&(c). On the face of it the Notice deals with the Court's reasoning for an award of R1 347 650,00 in respect of the Plaintiff's past hospital and medical expenses as well as loss of earnings. What follows are such reasons.
2. On the 29th of May 2022 and at Nigel the Plaintiff was a passenger in a motor vehicle which was involved in a collision.
3. The RAF's liability was determined to be 100% in respect of the Plaintiff's personal injury damages that followed naturally from the accident.
4. The Plaintiff sustained the following injuries in the collision:
 - 4.1 a right shoulder tissue injury;
 - 4.2 a fracture of the right scapula;
 - 4.3 a cervico-thoracic spinal soft tissue injury;
 - 4.4 rib fractures with a right- sided hemopneumothorax;

4.5 a right parieto-occipital laceration;

4.6 a mild head injury.

5. The Plaintiff proved on a balance of probability that he suffered past medical expenses in the sum of R75 375,91 in respect of past hospital and medical expenses which is included in the amount awarded.

6. An application in terms of Rule 38(2) was granted to the extent that the evidence of the Plaintiff's expert witnesses was allowed on affidavit.

7. These experts mainly deal with the injuries that the Plaintiff suffered as a result of the accident and which have a bearing to the Plaintiff's claim for general damages.

8. According to the orthopaedic surgeon, Dr Read, the Plaintiff was moderately disabled for one month following the accident, during which time he recuperated in hospital for approximately five days and then continued to recuperate at home for the remainder of the time.

9. Dr Read also was of the opinion that if the Plaintiff attend to the treatment recommended by him, the disability should improve in respect of the orthopaedic injuries sustained in the accident.
10. Dr Read was of the opinion that although the injuries sustained by the Plaintiff should not preclude him from continuing his present employment, he may however experience intermittent residual symptoms emanating from his axial skeleton and have some resultant loss of productivity.
11. Dr Labuschagne filed a report as a neurosurgeon. He concluded that the head injury sustained by the Plaintiff was mild. As a result of such injury the Plaintiff had associated secondary residual memory and concentration disturbances, with secondary neuro psychological disturbances.
12. According to Dr Labuschagne the Plaintiff's employability displayed both neuro cognitive and neuro psychological complications as a result of the head injury. This will have a moderate impact on the Plaintiff's productivity, working ability and quality of life and will continue to do so in future.
13. The Plaintiff's residual symptoms according to Dr Labuschagne will result in the following areas of work being compromised, namely:

13.1 Physical abilities;

13.2 Concentration;

13.3 Memory;

13.4 Reliability;

13.5 Decision making skills;

13.6 Problem solving skills;

13.7 Teamwork;

13.8 Emotional control.

14. Dr Labuschagne qualified the Plaintiff for general damages based on the narrative test.

15. The Plaintiff utilised the evidence of Ms Bronkhorst, an occupational therapist. According to her the Plaintiff's employment as an administrative secretary, primarily involved desk-based jobs such as managing correspondences, organising documents and performing data entries. She classified the Plaintiff's employment as sedentary to light. She concluded that the Plaintiff has residual physical limitations due to the injuries from the accident particularly related to the mild traumatic brain injury, soft

tissue injuries to the cervico-thoracic spine and right shoulder and a fracture of the right scapula.

16. The Plaintiff utilised the services of a Ms Du Toit, an industrial psychologist. She emphasised the Plaintiff's academic qualifications:

16.1 BA Public Management and Governance degree at the University of Johannesburg;

16.2 Advanced Certificate Municipal Management and Governance at the University of Johannesburg;

16.3 in 2018 an honours degree BA Public Management and Governance at the University of Johannesburg.

17. Ms Du Toit furthermore obtained the information from an Adv. Roopram who as the Plaintiff's senior who confirmed that since the accident the Plaintiff; was not doing well, his absenteeism has increased and he is not coping with his job. She noted that from the bases of his intellectual perspective and qualifications he could possibly still qualify for

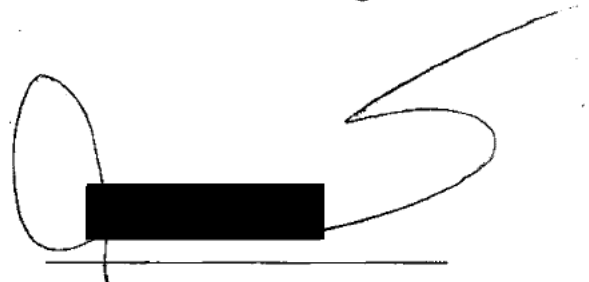
promotions, but this is unlikely to occur as his psychological/trauma issue are resolved.

18. Ms Du Toit concluded, having regard to the accident that the Plaintiff has returned to his pre-accident position, but according to workplace information the Plaintiff is not coping well post-accident and that he has been referred for inhouse counseling.
19. The Plaintiff obtained the evidence of Mr Loots, an actuary who based his calculation for past and future loss of earnings and earning capacity on the report of Ms Du Toit.
20. The function of the actuary in motor vehicle collision matters is to place contingencies before a court as to what reduction or increase needs to be applied to losses that the victim of a motor vehicle collision personal injury has suffered. He deals with complicated mathematical calculations. Invariably the actuary bases his calculation on the opinion or factual conclusions of other experts. The court is not bound by the calculations that the actuary provides. See Visser & Potgieter Law of Damages First Edition p 367. See also Legal Ins v Botes 1963 (1) SA 608 A. The Court is entitled and in fact duty-bound to evaluate the conclusions of the actuary.

21. The Plaintiff suffered no past loss of earnings and none is awarded to him in terms of this Order.
22. Loots applied a deduction of 15% for future loss, disregarding the collision.
23. Loots applied a contingency deduction for 35% for future loss of earnings, disregarding the accident, accordingly there was a contingency deficiency of 20%.
24. Loots motivated loss of earnings / earning capacity in the sum of R2 723 465,00.
25. I am of the view that a considerably higher contingency deduction needs to be made taking into account the Plaintiff's proven earning capacity as well as the adverse consequences of the accident. The experts all indicate that the Plaintiff will do well with continued treatment. It cannot be said that the Plaintiff will not excel in his current work environment. He is academically strong. The high-water mark of his injuries is psychological. Many of his symptoms such as irritability, short temper and mood swings will not have a permanent impact on his ability to earn. If I am wrong in

that conclusion, it was not proven that the Plaintiff now suffer these symptoms as a result of the accident. The Plaintiff is also of a young age and time will be to his advantage. I am of the view that on all the probabilities the adverse consequences of his injuries will reduce to zero within five to seven years and are not permanent, provided he receives the treatment that the experts suggest.

26. Under the circumstances I am of the view that an amount R1 272 274,09 be awarded to the Plaintiff as compensation for his loss of earnings and earnings capacity.

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a long, sweeping flourish that extends to the right.

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 to be 27 January 2026

Date of appearance: 2 September 2025

Date Judgment delivered: 27 January 2026

Appearances

For the Plaintiff: Adv SLP Mulligan

Instructed by: Levin Tatanis Inc

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