



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

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
- (2) OF INTEREST TO OTHER JUDGES: YES/NO
- (3) REVISED

DATE: 30 JANUARY 2026

SIGNATURE: [REDACTED]

Case No. 475911/2011

In the matter between:

JORDAAN, ALBERTUS JOHANNES N.O

APPLICANT

And

THE ROAD ACCIDENT FUND

RESPONDENT

Coram: Millar J

Heard on: Review in Chambers

Delivered: 30 January 2026 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 30 January 2026.

JUDGMENT

MILLAR J

[1] This is an application brought in terms of rule 48 of the Uniform Rules of court for the review of taxation. The rule provides that:

“(1) Any party dissatisfied with the ruling of the Taxing Master as to any item or part of an item which was objected to or disallowed mero motu by the Taxing Master, may within 15 days after the allocatur by notice require the Taxing Master to state a case for the decision of a judge.”

[2] After the applicant filed a notice of review, the Taxing Master filed a stated case as provided for in rule 48(3). After receiving the stated case, the applicant then filed submissions in terms of rule 48(5)(a). The application for review was then placed before me.

[3] The review turns on a single issue as appears below and for that reason, I decided in terms of rule 48(6)(a)(i) that it is appropriate that this review be decided on the papers submitted.

[4] This review was brought in respect of two items presented in a bill of costs for taxation on 2 July 2025. The bill was presented on an unopposed basis. The bill related to work done in respect of the liability portion of a claim against the Road Accident Fund.

[5] The trial on liability was set down for hearing on 24 July 2013. The trial lasted 3 days being 24 July 2013, 25 July 2013 and 26 July 2013. At the conclusion of the trial, judgment was reserved.

[6] On 11 February 2014, judgment was delivered in favour of the applicant on the issue of liability. The judgment was in the form of an order. There is no written judgment setting out the reasons for the order. The order of 11 February 2014 provided that:

- “1. *THAT the plaintiff succeeds 100% in his claim on the merits.*
2. *THAT the defendant is to pay all the damages claimed by the plaintiff as proven or agreed upon.*
3. *THAT the defendant is to pay the costs of suit in respect of liability only.”*

[7] While the bill of costs presented at taxation contained some 188 items, the review is brought solely in respect of four of those items. The review in respect of items 170 – 172 were in respect of the fees of the attorney for attending the trial on each of its 3 days. In respect of item 173, being the costs of counsel for the 3 days.

[8] In respect of both the attorney's fees as well as counsel's fees, the Taxing Master disallowed the fees for the actual attendance at court. In respect of the attorney's fees, the Taxing Master ruled that only 2 hours were to be allowed for each of the days concerned, notwithstanding a claim for a full day's attendance at court. In respect of counsel's fees, the Taxing Master disallowed counsel's fees for the 2nd and 3rd day of the trial respectively.

[9] These rulings were made in circumstances where the Taxing Master was furnished with proof by way of the contemporaneous handwritten notes and time sheets of the attorney for each of the 3 days concerned together with a letter from the Senior Counsel (who appeared in the matter). Subsequently, a letter was also furnished by the expert witness who testified in the trial.

[10] In his stated case, the Taxing Master states:

"The Taxing Master submits that discretion was properly exercised in disallowing the fees claimed for Counsel and attorney appearances on 25 and 26 July 2013. The bill of costs included items for both legal practitioners for these appearances."

[11] The Taxing Master also confirmed, receipt of the attorney's file notes but held that *"these were not accepted as adequate proof of the work done or authority of the claimed expenses."* By way of justification for this, the Taxing Master sought to rely on the judgments in *RH Christie Inc v Taxing Master*¹ and *Coetzee v Taxing Master*.² As authority for the proposition that *"unjustified or excessive costs, even if claimed in good faith"* must be disallowed and that proof *"must be furnished for exceptional deviations."*

[12] The crux of the approach adopted by the Taxing Master is that because the court order of 11 February 2014, did not specify the duration of the trial or that more

¹ [2021] ZASCA 152

² 2013 (1) SA 74 (GSJ).

than 1 day's costs were awarded, then on that basis and for that reason, no costs could be awarded as between party and party for the 2nd and 3rd day of the trial.

[13] The Taxing Master expressed the view taken thus:

"In terms of rule 70, the Taxing Master shall tax a bill of costs in accordance with the tariffs and the practice of the Court. In this case, certain items, including fees for counsel and attorney appearances, were disallowed due to the absence of a court order."

[14] The crisp question is whether it is necessary for the Court order to specify the specific number of days in respect of which costs are awarded and whether this is a *sine qua non* to the claiming for more than 1 day, even if the duration of the trial was more than 1 day where the Court order refers only to "costs of suit."

[15] Rule 70(3) of the Uniform rules provide that in respect of an award for party and party costs that these costs are awarded:

"With a view to affording the party who has been awarded an order for costs a full indemnity for all costs reasonably incurred by him in relation to the claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been awarded, the taxing master shall, in every taxation, allow all such costs charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through over-caution, negligence or mistake." [My emphasis].

[16] It is self-evident, judgment having been reserved at the end of the 3 days of trial and subsequently having been granted in favour of the plaintiff some 6 months

later, that the attendance of the attorney and counsel to conduct the trial for all 3 days was necessary. On this ground alone, the review must succeed.

[17] It bears mentioning that the difficulty experienced in this matter by both the Taxing Master as well as the applicant, in trying to provide corroboration independent of the handwritten contemporaneous notes of a senior attorney (who was present for all 3 days) as well as a letter (in addition to his brief) by Senior Counsel confirming their presence and the conduct of the trial over the 3 days is occasioned by the fact that the bill of costs was only presented for taxation more than a decade after the court order was granted.

[18] In the decade since the court order was granted and since 2020, when the CaseLines system was implemented in this Division of the High Court, physical files are defunct. All historical files have been moved to archives but have not yet been digitally archived to be readily accessible. Similarly, the applicant indicated that an approach had been made to the Judge concerned to ascertain if her bench book was available but unfortunately, given the passage of time, it is not.

[19] In *Trollip v Taxing Mistress of the High Court and Others*,³ it was held that:

“While a Taxing Master may not ignore evidence that may show that work that has been charged for has, in fact, not been done, this does not mean that there is a duty upon practitioners to ‘prove their claims’, as it were. The legal profession is a ‘distinguished and venerable profession”, and its members are officers of the Court. As a result, ‘absolute personal integrity and scrupulous honesty’ are expected of them. It follows that a taxing officer is entitled to take counsel’s fee list at face value as constituting a record of the work that has been done. The honesty and professional ethics of counsel ought not be lightly questioned.”

³ 2018 (6) SA 292 (ECG) at para [20].

- [20] What is left in this review is the incontrovertible evidence that was made available to the Taxing Master corroborating that the duration of the trial was indeed 3 days and not only the 1st day as the Taxing Master on a somewhat strained “literal” interpretation of the court order found. The rules relating to interpretation, although trite, bear repetition here. In *Natal Joint Municipal Pension Fund v Endumeni Municipality*,⁴ it was held that when interpreting documents “a sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document.” [My underlining].
- [21] The meaning ascribed to the text of the costs portion of the order of 11 February 2014 clearly “*undermines the apparent purpose of the document*” which is to afford the successful party and indemnification against the costs both reasonably and necessarily incurred.
- [22] In regard to the terms of the order I intend to make, and by way of clarification it is necessary to say something regarding the quantum of the 4 items concerned.
- [23] In respect of items 170, 171 and 172, the amount claimed for each was R5 751,00 – the Taxing Master in fact had allowed R4 260,00 for each. This meant that in respect of those items, R1 491,00 was taxed off for each, the total being 3 times that amount (R4 473,00). This is the position reflected in the allocatur although subsequently when the Taxing Master delivered his stated case it was indicated that there had been an error in allowing anything for these items. I am of the view that each of these three items ought to have been allowed in their entirety together with VAT.(R4 473,00 plus R626,22 equals R5 099,22).

⁴ 2012 (4) SA 593 (SCA) at para [18].

- [24] In respect of item 173, the total amount claimed for was R208 620,00 inclusive of VAT. The allocatur reflects that an amount of R85 500,00 was taxed off this. The Taxing Master, besides disallowing Counsel's fees for the second and third day of the trial (R30 000,00 for each day i.e. R60 000,00 plus VAT of R8 400,00 equaling R68 400,00) in total also taxed other amounts off. These other amounts totaled R15 000,00. Together with VAT the total amount by which item 173 is to be reduced is accordingly R15 000 plus R2 100,00 VAT equals R17 100,00.
- [25] The difference of R17 100,00 is not challenged in this review. The result is that the amount allowed for item 173 is R208 620,00 less R17 100,00 equals R191 520,00.
- [26] In summary, the allocatur of 2 July 2025 ought to have included the amounts of R4 473,00 plus R68 400,00 equals R72 873,00.
- [27] In the circumstances, it is ordered: -
- [27.1] The review succeeds.
- [27.2] The allocatur dated 2 July 2025 related to items 170 to 173 is set aside and replaced with the following:
- [27.2.1] In respect of item 170 an amount of R5 751.00 is allowed.
- [27.2.2] In respect of item 171 an amount of R5 751.00 is allowed.
- [27.2.3] In respect of item 172 an amount of R5 751.00 is allowed.

[27.2.4] In respect of item 173 an amount of R191 520.00 is allowed.

[27.3] There is no order as to costs.



A MILLAR
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

REFERRED ON: 19 JANUARY 2026
JUDGMENT DELIVERED ON: 30 JANUARY 2026

FOR THE APPLICANT: ADAMS & ADAMS ATTORNEYS
REFERENCE: MS. B SHIELLS

FOR THE RESPONDENT: THE RESPONDENT DID NOT OPPOSE
THE REVIEW