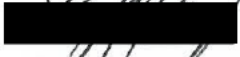


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 19681/2020

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
30/1/26	
DATE	SIGNATURE

In the matter between:

RUNGANGA: JOHN

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

ALLY, AJ

- [1] This is an action by the Plaintiff for damages arising from injuries allegedly sustained in a collision that occurred on 30 April 2019.
- [2] The plaintiff was represented by Adv. N. Pather and the defendant by Ms N. Mhlongo.

- [3] At the outset the court was informed and it was common cause that merits as well as quantum was in dispute. Furthermore, it was clear that general damages was to be postponed *sine die* for the reason that defendant did not make any submissions regarding the seriousness of the injuries which placed the adjudication of the seriousness thereof outside the jurisdiction of this court¹.
- [4] Counsel for the plaintiff moved an application in terms of Rule 6(5) read with Rule 38(2) of the Uniform Rules of Court. This application was not opposed and after hearing Counsel for the plaintiff, the application was granted.
- [5] The issues for adjudication were thus merits and quantum, specifically loss of earnings and future medical expenses.
- [6] In respect of the merits, the plaintiff proffered his Section 19(f) affidavit. The accident report filed as part of the documentation submitted to the defendant recounted how the collision occurred. The Section 19(f) affidavit was deposed to on 12 June 2019 and the accident report was completed on 13 May 2019.
- [7] It is important to note from the accident report that a third vehicle was also involved in the collision which is not mentioned in the plaintiff's Section 19(f) affidavit.
- [8] It is further important to note that the defendant did not place a version of the insured driver before court and thus it is only the plaintiff's version that is available to adjudicate whether the plaintiff succeeds in proving negligence on behalf of the insured driver.
- [9] Ms Mhlongo for the defendant submitted that the collision occurred as a result of the sole negligence of the plaintiff and accordingly, the plaintiff has not succeeded in proving any negligence on behalf of the insured driver. Ms Mhlongo submitted further that whilst she accepts the version of the plaintiff, the plaintiff does not explain what he did to avoid colliding into the back of the insured vehicle.

¹ Road Accident Fund v Duma 2012 SCA 169

[10] In my view, and on a totality of the evidence before me, the plaintiff, whilst providing different versions which are not necessarily materially different, has proven that the insured driver was negligent in that the insured vehicle without prior warning suddenly moved into his lane. The question however, is whether on his own version, the plaintiff was negligent. Counsel for the plaintiff in her heads of argument and in her submissions to Court submitted that the plaintiff was 20% negligent and the insured 80% negligent.

[11] Once again, on the totality of the evidence, I am of the view that the plaintiff was negligent as correctly conceded by plaintiff's Counsel but that such negligence was 30% rather than 20%.

[12] In respect of future medical expenses, it is accepted and the insured driver having been found 70% negligent, the defendant is to furnish the plaintiff with undertaking in terms of Section 17(4) of the Road Accident Fund Act.²

[13] In respect of loss of earnings, the plaintiff proffered the medical expert reports as well as affidavits the affidavits of the experts confirming their reports.

[14] It is trite that the court is vested with the discretion in determining the contingencies to be applied in determining the loss of earnings of a given plaintiff where the court is of the view that a loss of such earnings has been proven on the evidence before it.

[15] The following expert reports have been considered:

15.1. Prof Chait: plastic surgeon – report dated 16 September 2020;

15.2. Dr P.A.G. Botha: urologist – report dated 28 January 2020;

15.3. Rosslyn Bennie and Catherine Rice: occupational therapists – report dated 10 February 2021;

15.4. David de Vlamingh: industrial psychologist – report dated 2 December 2021 with an addendum dated 22 May 2025;

² Act 56 of 1996 as amended

15.5 Munro Forensic Actuaries: actuaries – report dated 26 May 2025.

[16] The first issue that comes to light in respect of the loss of earnings is the proof of earnings. The plaintiff filed a bank statement from Capitec Bank³ from which it is difficult to discern his earnings and dated 16 June 2019.

[17] Ms Mhlongo for the defendant submits that it is difficult to follow the report of Munro Actuaries for the reason that in respect of the past loss no factual basis is laid for the amount he received in the past and thus the basis provided in respect of the past loss. In my view, this criticism is valid and must be taken into account in determining the contingency to be applied both in respect of the past loss as well as the future loss.

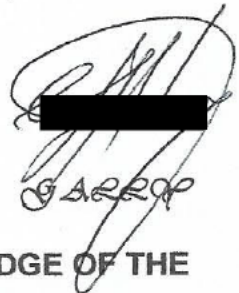
[18] Accordingly, I am of the view that the following will apply in determining the loss of earnings in this matter, for the reasons set out above:

	Uninjured Earnings	Injured Earnings	Loss of Earnings
Past	R1 041 200	-	
Less contingency	R208 240 @20%	-	
	R832 960		R832 960
Future	R2 147 300	R1 001 400	
Less contingency	R644 190 @30%	R200 280 @20%	
	R1 503 110	R801 120	R701 990
Total Loss of Earnings			R1 534 950 – 30% = R1 074 465-00

³ CaseLines: Section D63 – D65

[19] Accordingly, the following Order will issue:

- a). The draft order marked X is made an order of Court.

A handwritten signature in black ink, appearing to read 'GARRQ', is written over a black rectangular redaction box.

ACTING JUDGE OF THE
HIGH COURT

GAUTENG DIVISION OF THE HIGH COURT, JOHANNESBURG

Electronically submitted therefore unsigned

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be **30 January 2026**.

Date of hearing: 3 June 2025

Date of judgment: 30 January 2026

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