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**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION-MAKHANDA)**

CASE NO. 1631/2017

In the matter between:

ADV ANDREW DU PREEZ N.O obo S[...] D[...]

PLAINTIFF

And

MEC FOR HEALTH

DEFENDANT

JUDGMENT

NKELE AJ:

INTRODUCTION.

[1] The plaintiff instituted an action against the defendant in the Makhanda High Court for compensation, on behalf of S[...] (“the minor”), who was born on 28 January 2013, and sustained neurological injuries during birth. The defendant has since accepted 100% liability for those injuries caused by the negligence of its servants. They have also reached an agreement regarding the fair and reasonable compensation relating to certain heads of damages and in this regard, they have agreed to a formal separation of issues, in terms of Rule 33(4) of the Uniform Rules of Court.

[2] The parties also agreed that the joint minutes of the various experts should form the evidential basis on which the court should decide the issue under consideration, as well as the viva voce evidence of the minor’s maternal grandfather, Mr M[...] N[...]. Part of the agreement was that, should the court conclude that the minor has awareness sufficient to entitle him to be awarded general damages, an amount of R2, 5 million should be awarded. Conversely, if the court finds that the minor is in a vegetative state then no general damages will be awarded.

EVIDENCE OF Mr N[...].

[3] Mr N[...] testified that he is the grandfather of the minor in that the late minor’s mother, who passed on in September 2021, was his daughter. He described the minor as a lively boy who is aware of his surroundings and what is happening to him, he can identify and recognise people and can respond during interaction with other people, although he is living with a disability. He recalled an incident that happened in 2020 when the minor was taken to the Masibambane School for the disabled, for a

period of one year, he made it very clear that he does not like the school. Though unable to speak, whenever he sees the gates of that school, he would cry and as result of that he was taken out of that school.

[4] Secondly, on the issue of awareness, he enjoys watching Mr Bean's program on TV and he seems to follow and that he demonstrates by laughing at what Mr Bean does. Mr N[...] also stated that the minor is very protective of his healthy younger brother and loves him so much that whenever he notices that he realises that he has been beaten by another child, he would be very upset with the child that has beaten him. Another example he testified about was that he likes attention and when he is being fed, he prefers someone who is in a good mood, otherwise he will look away and don't accept the food. He also stated that the minor is very much aware of what is happening around him and that is clear from the fact whenever he has defecated the nappy he is wearing, he would indicate by leaning forward. When he is hungry, he would constantly look at the kitchen, even if he was watching TV.

[5] When he is watching TV, Mr N[...] stated, you cannot just change a channel without telling him. He would be very upset. In conclusion, he stated that the minor is very observant, and therefore aware of what is going on around him. That is demonstrably clear from the fact that whenever his sister, who stays in Kimberly, visits them, the minor will recognise her by looking and laughing with her.

[6] During cross-examination, Mr N[...] disputed that he was giving opinion evidence, which evidence should be given by an expert in a particular field. Instead, he stated that he was giving a detailed account of how the minor behaves daily. In elucidation, he stated that although the experts are qualified to express an opinion regarding his condition, he too can state the things that he notices and those that the minor does. He conceded that the minor cannot speak, hold a pen and write but stated that he would appreciate and understand if a new device is bought for him.

THE REGULATORY LEGAL FRAMEWORK

[7] It is trite that the rationale behind the award of general damages is that, as far as money can achieve it, the law should put the injured party to the position he or she would have been had the wrongful act not occurred. In other words, the function of general damages in our law is compensatory in nature. This was neatly articulated in the then Appellate Division decision of *Evins v Shield Insurance* where it was held that the object of general damages is to place the party who has been injured, as far as possible, in the position he would have been in had the wrongful act not been committed.¹ J Neethling and J Potgieter concur when they state that the function of general damages is compensatory in nature as they are awarded to acknowledge and address the infringement of the claimant's bodily and psychological integrity.² That damages have a compensatory function was emphasised in *Zysset v Sanlam Ltd* where it was held *"The modern South African delictual action for damages arising from bodily injury negligently caused is compensatory and not penal. As far as*

¹ 1980 (2) SA 814 (A).

² Law of Delict LexisNexis 8th Ed pages 265- 266.

*plaintiff's patrimonial loss is concerned, the liability of the defendant is no more than to make good the difference between the value of the plaintiff's estate after the commission of the delict and the value it would have had if the delict had not been committed.*³

- [8] The unanimous and trite position in modern law is that no compensation, in the form of general damages is awarded for an unconscious plaintiff or someone in a permanent or persistent vegetative state. In eloquent terms the court explained this salient legal position when it said the following:

*"As previously indicated, there would appear to be unanimity that an unconscious person is not entitled to damages for pain and suffering or anguish, that is to say, the subjective element of the loss of amenities of life, since he or she suffers no pain and experiences no anguish. The objections to the English approach are the following. First, the award of non-pecuniary damages in respect of the actuality of the loss serves no purpose as the money awarded cannot be used for the benefit of unconscious person who, by reason of his injuries, is incapable of deriving any advantage from a monetary award can notionally obtain some consolation from the receipt of money and from being able, if he pleases, to give it away. An unconscious person cannot even have this consolation".*⁴

³ 1996 (1) SA 273 (C), Dippenaar v Shield Insurance Co Ltd 1979 (2) SA 904 (A) at 917B.

⁴ Collins v Administrator, Cape 1995 (4) SA 73 (C) 92F-H

1. Similar sentiments were also endorsed by the Supreme Court of Appeal in MEC, Health, Gauteng Provincial Government v AAS obo CMMS where the following was stated:

“A[157] The position in our law on the compensation of an unconscious claimant can thus be summarised as follows. Such a claimant is not entitled to any award for pain and suffering under any circumstances. This is uncontroversial. In respect of an award for loss of amenities of life, such can only be made to the extent it can serve some function for the personal and exclusive benefit of the claimant. This is particularly so where an award for special damages adequately provides the means and facilities to make the unconscious claimant’s life less miserable.”⁵

- [9] It is a well-entrenched principle that there is a distinction between ‘*twilight*’ cases and ‘*cabbage*’ cases.⁶ In a twilight case some communication with the injured minor is possible while a cabbage case has no cognitive senses. The distinction was better explained by Trollip JA in *Marine & Trade Insurance Co Ltd v Katz NO* where he stated that *“in awards arising from brain injuries, although a person may not have ‘full insight into her dire plight and full appreciation of her grievous loss’, there may be a ‘twilight’ situation in which she is not a so-called ‘cabbage’ and accordingly an award for general damages would be appropriate. This case has been followed in numerous instances. ZK’S awareness of his suffering, albeit diminished by his reduced mental faculties, puts him in this ‘twilight’ situation. During the course of the argument this became common cause. This confirms that he is entitled to an award for general damages and that all that remains to be determined, under this head, is how much*

⁵ Neethling and Potgieter Law of Delict 8th Ed (2021) at 294.

⁶ Neethling and Potgieter Law of Delict 8th Ed (2021) at 294

would be suitable in all the circumstances”.⁷ Quite recently, the Supreme Court of Appeal in the case of *The MEC for Health, Gauteng Provincial Government v AAS obo CMMS* explained ‘twilight moment’ when it held [69] “.... It seems, with respect, that the learned Judge misconceived what is meant by a ‘twilight moment’ in the context of damages claim. What is envisaged here is a *lucidum intervallum* – a reference to a momentary improvement in a patient’s condition after a brain injury.”

[70] A good example of a claimant who experienced twilight moments is found in *Qunta v Road Accident Fund*⁸. The claimant there had intervals of lucidity when she appreciated to a degree that she was being treated differently from how she conducted her life, before the collision. She frequently realised that something was drastically wrong with her and that she was not enjoying life. She infrequently realised that something was drastically wrong with her and that she was not enjoying life”.⁹ In *Clarke v Hurst* the so-called ‘cabbage’ case, now commonly known as ‘persistent vegetative state’ was eloquently explained by Thirion J as follows:

“The term “persistent vegetative state” seems to have been created by Dr Fred Plum, professor and chairman of the Department of Neurology at Cornell University and the World-renowned neurologist. It describes a neurological condition where the subject retains the capacity to maintain the vegetative part of neurological function but has no cognitive function. In such a state the body is functioning entirely in terms of its internal controls. It maintains

⁷ 1979 (4) SA 961 (A) at 969A-G, *NK v MEC For Health, Gauteng* 2018 (4) 454 at 458 para [7]

⁸ 1973 (2A4) QOD 368 (E)

⁹ (401/2023) [2025] ZASCA 91 (20 June 2025) paras [69] and [70].

*digestive activity, the reflex activity of muscles and nerves for low level and primitive conditioned responses to stimuli, blood circulation, respiration and certain other biological functions but there is no behavioural evidence of either self-awareness or awareness of the surroundings in a learned manner ... Steadman's Medical Dictionary defines "vegetative" as functioning involuntarily or unconsciously after the assumed manner of vegetable life"*¹⁰.

- [10] Recently the Supreme Court of Appeal embarked upon an excursus of authorities in comparative jurisdictions and had an occasion to grapple with divergent views in our jurisprudence and academic writings in the case of AAS obo CMMS.¹¹ After having analysed dicta in previous similar cases, the court concluded that the remarks made by the court in NK obo ZK were made, to the effect that *'we do not have to determine what the award will be used for – its purpose or function'*,¹² and do not constitute binding authority.¹³ To emphasise that point the court stated *"Thus, the remarks in NK obo ZK go against the authority of this Court's judgment in Bailey, and they were made in passing. To that extent, they do not bind us"*.¹⁴ The Supreme Court of Appeal concluded by stating that *"The remarks in NK obo ZK to the effect the purpose for which the award would be used is irrelevant, do not reflect our law as correctly*

¹⁰ 1992 (4) SA 630 (D) at 640E-F.

¹¹ paras, [76] –[114]

¹² see NK obo ZK para 9

¹³ para [131].

¹⁴ para [134].

set in Bailey. In all the circumstances, I find the reasoning of Scott J in Collins far more juridical sound and cohesive”.¹⁵

[11] The modern approach to the compensation of an unconscious plaintiff is summarised by the Supreme Court of Appeal in its judgment in AS obo CMMS as follows:

“...Such a claimant is not entitled to any award for pain and suffering under any circumstances. This is uncontroversial. In respect of an award for loss of amenities of life, such can only be made to the extent it can serve some function for personal and exclusive benefit of the claimant. This particularly so where an award for special damages adequately provides the means and facilities to make the unconscious claimant’s life less miserable”.¹⁶

ISSUE FOR DETERMINATION

[12] In my considered view the issue that this court is seized with, and must decide, is twofold, a factual one in the sense that the court must decide whether the minor is in persistent vegetative state, the so-called a cabbage case, and therefore does not qualify to be awarded general damages. Secondly, the court must decide what constitute an unconscious plaintiff and what approach our courts have adopted to decide what makes him or her qualify for general damages.

ANALYSIS AND EVALUATION

¹⁵ para [156]

¹⁶ para [157].

[13] At the outset of the hearing, the parties reached an agreement that all joint minutes placed before this court will constitute evidence that will be considered in deciding the issues at stake. In addition, the plaintiff presented viva voce evidence of the minor's grandfather regarding the state of his consciousness. On the basis thereof, I therefore set out to analyse that evidence, in conjunction with the joint minute and the prevailing legal position on the subject.

[14] It is common cause between the parties that in this case that the injuries suffered by the minor are severe, as described in the medico-legal reports filed of record and amplified by the joint minutes of the experts who compiled the medico-legal reports filed by the parties. The medico-legal reports vividly show that the minor suffered serious brain damage, aptly described in the ENT joint minutes as *"dystonic palsy, profound global developmental delay with intellectual disability, kyphoscoliosis, hearing impairment, no speech and language development, inability to sit without support and dysfunctional sphincter control, difficulty in swallowing and bilirubin – induced neurological dysfunction"*. The condition in which the minor finds itself is manifested in severe functional restriction, intellectual impairments associated with language development, incontinence, and multiple contractures in his upper and lower limbs.

[15] What is palpably clear from the evidence presented by the minor's grandfather and the joint minutes is that he suffers from severe a cognitive disability. This so although he is conscious and aware of his surroundings. What the evidence reveals is that he is

so impaired physically such that he cannot engage in any task that requires activity of a physical nature. He cannot feed or bath himself, for an example, and he is solely dependent on help for self-care related activities. Although he can hear, see and cry but he cannot express himself verbally. He enjoys watching TV, especially Mr Bean program and can recognise family members. He is even very protective of his younger brother against physical abuse by other children. However, he cannot act independently in all activities of daily living. He is entirely dependent on others for feeding and will indicate that he is hungry by crying. His condition, generally, is like the one describe by Nhlangulela AJP when he stated, *“He was completely incapable of taking part in ordinary and everyday aspects of life”*.¹⁷

[16] Mr Myburgh, counsel for the plaintiff, strenuously argued that the evidence presented by the paediatricians and the grandfather clearly show that the minor has cognitive functions, he understands what is going on around him and experiences hunger, although he cannot communicate by verbal means. He further submitted that the minor’s GMFCS V score is simply an indication of his physical limitation but not mental retardation. He therefore argued that the minor’s condition cannot be described as ‘cabbage type’ or a ‘persistent vegetative’ one and should be awarded general damages. Mr Myburgh referred the Supreme Court of Appeal judgement of AAS regarding the description of a vegetative state where it was stated that:

¹⁷Mbulali v MEC of the Executive Council for Health in the Eastern Cape Case No. 2992/2013 dated 4 September 2025 para [5].

“in all circumstances, he is not aware of his suffering and will never be” and found that “... has profoundly affected his intellectual disability with almost non-existent intellectual function”.¹⁸

[17] On the other hand, Mr Kunju submitted that for court to award general damages in cases of this nature, it will have to be satisfied that the claimant will be conscious of the award. In this matter, he argued, there is no realistic chance of that happening because the joint minutes of the psychiatrists make it very clear that the minor presents with intellectual deficits. He supports his argument by relying on the Ophthalmologists’ joint minutes which is to the effect that the minor suffers from a postnatal kernicterus, global developmental delay and neurocognitive disability and that the orthopaedics’ joint minutes states that he cannot sit without support, as his general motor classification scale is 5, which means a maximum scale of dysfunction. Lastly, he argued that from a urological view point, the minor is totally incontinent of urine and faeces. In support of his argument that the minor does not qualify to be awarded general damages, as he is in a permanent vegetative state, Mr Kunju relied on the decision of *Clarke v Hurst* and that of *Mbulali v Member of Executive Council Responsible for Health in the Eastern Cape*.

[18] As was stated in *Mbulali*, the issue whether the minor is unconscious does not arise.¹⁹ That is also the case in this matter. What is at issue is whether the minor

¹⁸ See also paras [4], [5].

¹⁹ See para [8] of that judgment

qualifies to be compensated with an award for general damages in the present factual matrix. This a pertinent question that this court must answer, having regard to recent authorities available in our jurisprudence on the subject. In AAS obo CMMS the Supreme Court of Appeal described the question of whether an unconscious claimant is entitled to general damages for loss of amenities of life as *“of a formidable legal complexity”*.²⁰ The court in that judgment adopted the approach that ‘the purpose for which the award is to be used is a relevant factor in considering loss of amenities of life for an unconscious claimant’²¹. The court reasoned that *‘it should be borne in mind that a compensation award, whether for pecuniary or non-pecuniary damages, must have a purpose’*. It further stated that the purpose of general damages....is to *‘redress the deterioration of a highly personal legal interest that is attach to the body and personality of the claimant’*.²² Following the reasoning adopted in Collins v Administrator, Cape, that “the function to be served by an award of damages is a relevant consideration in determining what damages should be awarded was accepted by the Appellate Division in Southern Insurance Association Ltd v Bailey NO 1984 (1) SA 98 (A).²³ In the end the court decided not to award general damages. That decision was recently followed in this Division in the judgment of Mbulali v MEC of the Executive Council for Health in the Eastern Cape where Nhlangulela AJP stated that he is bound by the doctrine of stare decisis to follow the decision of the SCA. The Acting Judge President, likewise, declined to award general damages in similar factual circumstances as in the present matter. I am

²⁰ para [136] of the judgment

²¹ para [137]

²² para [149], Van der Merwe v Road Accident Fund and Another [2006] ZACC 4; 2006 (4) SA 230 (CC); 2006 (6) BCLR 682 (CC) para [38].

²³ 1995 (4) SA 73 (C) at 92H/I – 93E/F.

more inclined to follow suit because it been a long-established principle, Bailey in 1984, no compensation would be awarded for general in circumstances where that would serve no useful purpose. As already stated, in this matter the condition of minor is such that an award of general damages will not be of use to him, it will serve no useful purpose and it is therefore quite appropriate, in my view, that no general damages should be awarded.

CONCLUSION

[19] As already adumbrated above, I am also constrained by the doctrine of precedent, which is so firmly entrenched in our law, to follow suit refuse an award for general damages. To put it clear, having considered the evidence of the minor's grandfather and the joint minutes of the experts filed of record, I conclude that the minor has no appreciation of his surroundings and that his condition is that a child in a '*cabbage*' condition, although he has some twilight moments. For that reason, in my view, the award of general damages will serve no useful purpose, in the circumstances of this case. In coming to that I rely on the decision of Mbulali and the authorities relied on in the judgment of the SCA in AAS obo CMMS. I so conclude well understanding that plaintiff's counsel submitted that the judgment in AAS obo CMMS is currently the subject of an appeal to the constitutional court and, for that reason it is not an authority for now. I rely on the authority that the SCA referred to in Southern Insurance Association Ltd v Bailey, Collins and Mbulali judgments. The later one is more binding on me as it comes from this division. In the premises the plaintiff's claim for general damages is dismissed.

[20] What now remains is the determination of the compensation to be awarded, now that general damages cannot be granted, as well as the costs of suit. As far as that is concerned, the parties have come to an agreement. In considering whether to order the plaintiff to pay costs of suit relating to the dismissal of the general damages claim, I must consider the fact that the present action was instituted for and on behalf of indigent litigant. Secondly, it was so instituted for legitimate purpose, which is to vindicate the rights and legitimate interests of the minor, not for an ulterior purpose. Plaintiff's counsel has urged me to award costs on scale C, in respect of Senior Counsel, and scale, in respect Junior Counsel.

[21] Lastly, it pursued a delicate and complex issue of law which is yet to be settled by the apex court. It is for that reason that I am reluctant to mulct the plaintiff into paying costs for the general damages part that he lost. I do so taking into account that the Biowatch ²⁴ principle operates in the plaintiff's favour, especially because the nature of the case instituted was not an abuse of the process of court, but was aimed at vindicating a constitutional right of a child, relating to freedom and security of a person, as provided for in section 12 of the Constitution. The defendant will bear the costs incurred in instituting the whole action.²⁵

ORDER

²⁴ Biowatch Trust v Registrar, Genetic Resources and Others 2009 (6) SA 232 (CC)

²⁵ Mbulali judgment para [10]

[22] In the result I make the following order:

1. The plaintiff's claim for compensation in respect of general damages is dismissed, with no order as to costs.
2. The Defendant is ordered to pay the Plaintiff, in his representative capacity, the amount of **R6 456 253.00 (SIX MILLION FOUR HUNDRED AND FIFTY-SIX THOUSAND TWO HUNDRED AND FIFTY-THREE RAND)** which amount is calculated as follows:
 - 1.1 Loss of earnings: R3 093 745
 - 1.2 Mobility (vehicle): R1 443 033
 - 1.3 Architect: R1 294 620
 - 1.4 Protection of the funds: R484 219-00
3. The amount mentioned in paragraph 1.1, 1.2, 1.3 and 1.4 *supra* will be paid to the Plaintiff within 30 days of date of this order, per section 3 of the State Liability Act 20 of 1957, failing which the Defendant is ordered to pay interest to the Plaintiff on the entire amount (less any payments made) at the prescribed interest rate per annum, *a tempore morae*, calculated from the 31st day following the date of judgment to date of final payment, both days included.
4. The Plaintiff's attorney of record is authorized to cause to be created, within 9 (NINE) months of date of his order, a trust to be established in accordance with the Trust Property Control Act No 57 of 1988, on behalf of the minor child, and, if it is not created within 9 (NINE) months to approach this Court or a Judge in chambers (as directed by the Judge President or Deputy Judge President) for a further direction or extension of time, which trust:-

4.1 shall be created in accordance with the draft trust deed, and shall contain the provisions set out therein.

4.2 shall have as its trustee Sanlam Private Wealth (Pty) Ltd (Registration Number: 2018/406470/07), the Independent Trustee, represented by Christine Bornman.

5. The trustee shall:-

5.1 Be entitled in the execution of its duties and fiduciary responsibilities towards the beneficiary of the trust, to have the attorney and client costs and disbursements of Plaintiff's attorneys taxed, unless agreed;

5.2 Be obliged to render security to the satisfaction of the Master of the High Court; and

5.3 Be subject to oversight by the Master of the High Court.

6. The Plaintiff's attorneys of record:

6.1 Are authorised, pending the creation and registration of the trust, to invest the award less such fees and/or costs to which they are entitled, in an interest bearing account in terms of section 86(4) of the

LEGAL Practice Act, Act 28 of 2014, and to make payment of any reasonable expense or disbursement for the benefit of the minor child as a trustee would have been able to do should such expenditure or disbursement be regarded as reasonably necessary;

6.2 Shall account fully to the trustee appointed, of all costs, fees, expenditure and/or disbursements paid from the award once the trust had been registered and the balance of the award paid over.

7. The Defendant shall pay the plaintiff's taxed or agreed costs of suit, to date, on the High Court scale, such costs to include the following:

7.1 Insofar as not paid, the reasonable costs attendant upon the obtaining of medico-legal reports and/or addendum reports and/or joint minutes, if any, and further inclusive or reservation costs and preparation costs and costs charged to attend Court, if applicable, of the following expert witnesses in terms whereof expert notices were filed:

- 7.1.1 Dr Birrell (Orthopaedic Surgeon)
- 7.1.2 A Greett (Occupational Therapist)
- 7.1.3 L Bruk (Dietician)
- 7.1.4 C Botes (Physiotherapist)
- 7.1.5 D Rademeyer (Mobility Consultant)
- 7.1.6 M du Plooy (Orthotist)

- 7.1.7 M du Plooy (Audiologist)
- 7.1.8 Dr Close (Psychiatrist)
- 7.1.9 Dr Stoler (Eye Specialist)
- 7.1.10 J Brummer (Architect)
- 7.1.11 N Kotze (Industrial Psychologist)
- 7.1.12 Dr Kgaabi (Specialist Paediatrician)
- 7.1.13 Dr Viljoen (Ear Nose and Throat Specialist)
- 7.1.14 Dr CF Hefer (Dentist)
- 7.1.15 Dr IJ van Heerden (Urologist)
- 7.1.16 Dr van der Rys (Educational Psychologist)
- 7.1.17 Dr K Levin (Speech Therapist)
- 7.1.18 Prima Actuaries (Actuary)

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- 7.2 The costs of any radiological or other special investigation used by any of the aforementioned experts, if applicable.
- 7.3 The costs attended upon the appointment of two counsel including the reasonable fees for preparation, drafting of heads of argument, travelling, as well as their reasonable day fees for the duration of the trial, to be taxed on **scale C and B** respectively for senior and junior.
- 7.4 The costs of attorneys and correspondent attorneys, to date of this order, which shall, subject to the discretion of the taxing master, include necessary travelling costs and expenses incurred on behalf of

the Plaintiff, preparation for trial and expenses, preparation for and attendance at court.

7.5 The costs and fees of and consequent to the appointment of the curator *ad litem*, which costs and fees shall include, but not be limited to, travel to Court, perusal, preparation of his report and for trial, consultation(s) and his full day fees for 17 and 18 November 2025;

7.6 Any costs incurred by and on behalf of the Plaintiff in as well as the costs consequent to attending the medico-legal examinations of both parties.

7.7 The costs consequent to the Plaintiff's trial bundles and witness bundles being prepared (9 sets as agreed in pre-trial).

7.8 The costs of holding all pre-trial conferences, as well as round table meeting between legal representatives for both Plaintiff and the Defendant, including senior and junior counsel's charges in respect thereof, irrespective of the time elapsed between pre-trials.

7.9 The costs of and consequent of the holding of all expert meetings between the medico-legal experts appointed by the Plaintiff [if any].

8. The Defendant shall pay interest on the Plaintiff's taxed or agreed costs of suit at the prescribed statutory rate calculated from 31 (THIRTY-ONE) days after

agreement in respect thereof, or from the date of affixing of the taxing master's allocator, to date of payment.

9. There is no contingency fee agreement.

10. Any payment due in terms of this order shall be paid into the following trust account:

WERNER BOSHOF INC.

Standard Bank Lynnwood Ridge

Account Number: 0[...]

Branch Code: 012-445

REF: MAT 1304

T. A NKELE

ACTING JUDGE OF THE HIGH COURT

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Matter heard on: 18 November 2025

Judgment delivered on: 05 February 2026