

REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 46374/2022

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

Date: 4 February 2026

E van der Schyff

In the matter between:

ADVOCATE SAYED N.O. obo MG S[...]

PLAINTIFF

and

THE ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT:

Van der Schyff J

- [1] The abovementioned trial was allocated to me on 30 January 2026. Shortly after rollcall the matter was heard. There was no appearance on behalf of the defendant. Counsel brought an application in terms of Rule 38(2) and requested that the court admit the reports of the experts appointed by the plaintiff's attorney of record. The application was granted.

- [2] The minor, represented in these proceedings by Advocate Sayed, is herein after referred to as the plaintiff. The facts of this case are that the plaintiff was 10 years old when he was injured in a motor vehicle accident. He was a pedestrian who attempted to cross a road. When he saw the oncoming vehicle, he tried to stop, but slipped and fell, and the vehicle drove over his right leg. As a result, his right tibia and fibula were fractured and required an open reduction internal fixation. No evidence was presented indicating that the minor had suffered from a head injury of any nature.
- [3] Regarding the plaintiff's claim for loss of income, counsel made submissions based on the expert reports filed. Plaintiff claims an amount of R7 101 544.90 in respect of the loss of earning capacity suffered by the minor. I reserved the order and informed counsel that I intend to review the reports carefully before an order is granted.
- [4] After perusing the expert reports, I am of the view that it would be in the interest of justice for the plaintiff to lead the *viva voce* evidence of five of the expert witnesses, to wit, the Industrial Psychologist, Ms. T. Talmud, the Educational Psychologist, Dr. J. Seabi, the Neuropsychologist Ms. I. Jonker, the Orthopaedic Surgeon Dr. P Engelbrecht and the Occupational Therapist, Ms. K Cumming.
- [5] Some of the issues I am grappling with are the development of what is referred to as a 'chronic pain syndrome', while the Orthopaedic Surgeon's report reflects that on 30 November 2022, the minor did not require regular usage of analgesics. Dr. Seabi should be provided the opportunity to elaborate fully, among others, on the reasons why he formed the opinion that the accident is the cause of the minor's Full-Scale IQ to fall within the "Extremely Low" range. Ms. Jonker's evidence regarding the duration and impact of, among the Depressive Disorder for which she proposed 40 sessions of psychotherapy and the improvement she foresaw if the remedial actions were taken. The court would also benefit from Ms. Jonker's explanation of how the injuries sustained could contribute to the severity of the perceived decline of the minor's cognitive functioning. The court is, among others, interested to hear whether any of the expert witnesses who reported on the minor's perceived cognitive decline post-accident visited the school and considered the

curriculum followed and the assessment done in grades 1 to 3, as well as to how the minor's peers' advancement through grades 1 to 3 and then further to the higher grades, compares to his.

- [6] In the result, the matter stands to be postponed *sine die* for the evidence to be heard by me on a date to be arranged with my registrar.

ORDER

In the result, the following order is granted:

1. The matter is postponed *sine die* for evidence to be heard by Van der Schyff J on a date to be arranged with Van der Schyff J's registrar.

E van der Schyff
Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. In the event that there is a discrepancy between the date the judgment is signed and the date it is uploaded to CaseLines, the date the judgment is uploaded to CaseLines is deemed to be the date that the judgment is handed down.

For the plaintiff:	Adv. J. Bam
Instructed by:	Ehlers Attorneys

Date of the hearing:	30 January 2026
Date of judgment:	4 February 2026