

REPUBLIC OF SOUTH AFRICA



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

Case No: 2024/023089

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
<u>18/02/2026</u>	<u>[REDACTED]</u>
DATE	SIGNATURE

In the matter of:

WISEMAN NDODA MDLALOSE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

Delivered: This judgment was prepared and authored by the Judge whose name is reflected on 18 February 2026 and is handed down electronically by circulation to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 18 February 2026.

JUDGMENT

TEBEILE AJ:

Introduction

[1] This is an action for the determination of general damages pursuant to a motor vehicle collision which occurred on 1 August 2021. The merits of the claim, past and future loss of earnings, and future medical expenses were settled by a default judgment order granted on 23 August 2024. The only issue remaining for determination is the quantum of general damages.

[2] The defendant, the Road Accident Fund, has been barred from pleading. The matter proceeds by way of default judgment on the papers, in terms of Rule 38(2), based on the plaintiff's affidavits and the confirmatory affidavits of the expert witnesses.

Background

[3] The plaintiff, a 36-year-old male at the time of the accident, was a passenger in the insured vehicle. As a result of the collision, he sustained severe and multiple injuries, the most significant being a spinal cord injury with complete cord transection at T10, resulting in paraplegia from T11 downwards.

[4] The injuries, as comprehensively detailed in the expert reports and hospital records, include:

- 4.1. A concussive head injury;

- 4.2. A T10 fracture dislocation with complete spinal cord transection, causing permanent paraplegia;
- 4.3. A wedge compression fracture of L2 with retropulsion of fragments into the cord;
- 4.4. A right elbow y-type supracondylar fracture;
- 4.5. Acetabular and right pelvic fractures;
- 4.6. Hemoperitoneum and multiple internal organ contusions (spleen, mesentery, jejunum);
- 4.7. Acute kidney injury; and
- 4.8. Multiple lacerations and abrasions.

[5] It appears that the sequelae of these injuries are profound and permanent. The plaintiff is wheelchair-bound, has no sensation or motor function in his lower limbs, and suffers from neurogenic bladder and bowel dysfunction requiring an indwelling catheter and a bowel program. He is at constant risk of life-threatening complications such as deep vein thrombosis, pulmonary embolism, pressure sores, and urinary tract infections.

[6] Furthermore, the plaintiff suffers from a major depressive disorder and secondary post-traumatic stress disorder, characterised by insomnia, withdrawal, hopelessness, anxiety, and cognitive deficits. He also bears extensive, permanent scarring.

Assessment of general damages

[7] The plaintiff claims an amount of R1 800 000.00 for general damages. Counsel for the plaintiff referred the court to several comparative cases, notably *Mertz*¹ (R3 500 000.00 adjusted to R4 304 583.00 in 2026 terms for tetraplegia), *MC v Road Accident Fund* (26299/2018) [2019] ZAGPJHC 242 (R1 200 000.00 adjusted to R1 838 722.00 for severe quadriplegia with complications), and *Morake v Road Accident Fund* (52700/15) [2017] ZAGPPHC 761 (R2 500 000.00 adjusted to R4 291 830.00 for quadriplegia).

[8] While these cases provide a useful framework, each assessment must be tailored to the specific circumstances of the plaintiff before the court. The injuries in *Mertz* and *Morake* involved quadriplegia, which typically commands a higher award due to the involvement of all four limbs. The plaintiff in this matter suffers from paraplegia.

[9] The case of *MC v Road Accident Fund* is more analogous, involving severe and permanent neurological sequelae with attendant complications. However, the court notes that the plaintiff in *MC v Road Accident Fund* was also diagnosed with quadriplegia, and which is not the position in the present case. The plaintiff here, while suffering catastrophically from paraplegia and a severe constellation of associated injuries and psychological sequelae, retains the use of his upper limbs, albeit with weakened right arm function.

¹ *Mertz v Road Accident Fund* (A96/2021) [2022] ZAGPPHC.

[10] I am also mindful of the fact that the determination in awarding an appropriate amount that should be fair to both parties is in the courts' discretion. The Supreme Court of Appeal in *De Jongh*² correctly opined that while the plaintiff should be properly compensated, at the same time the plaintiff should not be overly compensated with an exceedingly high award which would burden the defendant.

[11] In *Bay Passenger Transport Ltd*³ the Court summarised the proper approach to be followed as follows:

“Comparable cases, when available, should rather be used to afford some guidance in a general way, towards assisting the Court in arriving at an award which is not substantially out of general accord with previous and broadly similar cases, regard being had to all the factors which are considered to be relevant in the assessment of general damages. All the same time it may be permissible, in an appropriate case, to test any assessment arrived at upon this basis by reference to the general pattern of previous awards in cases where the injuries and the sequelae may have been either more serious or less than those in the case under consideration.”

[12] Having considered the nature, extent, and permanence of the injuries, the severe and lifelong impact on the plaintiff's amenities of life, his dignity, his mental health, and his profound loss of independence, I am of the view that an award of R1,800,000.00, as suggested by the plaintiff, is excessive in light of the cited jurisprudence which distinguishes between quadriplegia and paraplegia.

² *De Jongh v Du Pisanie N.O.* [2004] All SA 565 (SCA).

³ *Bay Passenger Transport Ltd v Franzen* 1975 (1) SA 269 (A) at p274.

[13] In view of the decision of the Supreme Court of Appeal in *De Jongh*, I am of the view that an award must be fair and reasonable, compensating the plaintiff adequately without being overly generous.

[14] Taking into account the totality of the evidence, including the permanent paraplegia but not permanent quadriplegia, the significant orthopaedic and internal injuries, the permanent scarring, the severe psychological sequelae, and the constant risk of medical complications, I find that a fair and appropriate award for general damages in this matter is R1 600 000.00 (One Million Six Hundred Thousand Rand).

Order

[15] In the result, I make the following order:

1. The defendant is ordered to pay to the plaintiff the amount of R1 600 000.00 (One Million Six Hundred Thousand Rand) in respect of general damages.
2. The defendant is ordered to pay interest on the said amount at the prescribed legal rate of 11.75% per annum, calculated from the date of service of the summons to the date of final payment.
3. The defendant is ordered to pay the plaintiff's costs of suit in respect of the determination of general damages.

SS TEBEILE

**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

For the Plaintiff:
Instructed by:

Adv. M Jorge
Raphael & David Smith Inc

For the Defendant:

No appearance

Date of Hearing: 03 February 2026

Date of Judgment: 18 February 2026