



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

CASE NO: 110197/2024

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES : YES/NO
(3)	REVISED
	
DATE	2/02/2026
SIGNATURE	

In the matter between:-

LEHASA OMPILE

PLAINTIFF

And

THE ROAD ACCIDENT FUND

DEFENDANT

JUDGEMENT

MATIKA AJ

Introduction

1. This is an application for default judgment where the plaintiff seeks relief in his personal capacity as results of the motor vehicle accident occurred on the 27 February 2016.
2. At the time of collision, the plaintiff was a passenger in the motor vehicle .The plaintiff and the defendant settled the issue of liability on the basis that the defendant shall be liable for 100% of the plaintiff's proven or agreed damages, resulting from the motor vehicle collision occurred on the 27 February 2016.

Facts

3. On 15 May 2024, the plaintiff's claim was lodged with the Road Accident Fund.
4. On 02 October 2024, summons commencing action was issued and served on the defendant on the 03 October 2024.
5. The defendant failed to enter appearance to defend, but settled the issue of merits in favour of the plaintiff.
6. There was due service of the application for default judgement and notice of set down for the 08 December 2025 was served on the defendant on 31 October 2025.
7. When the matter was called, in open court there was no appearance on behalf of the defendant and Adv Masina appeared on behalf of the plaintiff.

Quantum

8. The Plaintiff, is claiming an amount of R 9 000 000.00 in respect loss of income, R 1000 000.00 in respect of general damages and future medical expenses, in his amended particulars of claim dated 12 November 2025.

9. The plaintiff appointed the following experts: Dr Ntimbani (neurosurgeon), Dr Dlukulu (Clinical psychologist), DR Attreth Thobejane (Occupational therapist), Dr LT Kekane (educational therapist), Cloudious nyahwema (Industrial psychologist) and Tsebo actuaries (Actuary)

Injuries

10. The plaintiff alleged on the particulars of claim and amended particulars of claim that he sustained Head injury –laceration on the forehead, traumatic brain injury and right clavicle fracture.
11. According to the neurosurgeon report, the plaintiff was treated for head injury – laceration on the fore head and right clavicle.
12. According to RAF1 form completed by Dr Simphiwe Hadebe a general practioners it recorded on paragraph 6 that the plaintiff sustained Head injury ,abrasion on the foot and hand, upper limb soft tissue injury and chemical eye injury .
13. According to the hospital records from Dr JS Moroka Hospital plaintiff was diagnosed of soft tissue injury and plaintiff was complaining of painful left arm and elbow, foreign particulars in both eyes.
14. According to the industrial psychologist report on page 7, and the educational psychologist report , the plaintiff complains of the following:
- 14.1 He has right shoulder pain.
 - 14.2 He struggles to lift heavy objects.
 - 14.3 He has epileptic seizures.
 - 14.4 He has travel related anxiety.
 - 14.5 He has a blurry vision.
 - 14.6 He has memory challenges and.

14.7 He has concentration difficulties.

Loss of income

15. The plaintiff did not appoint an orthopaedic surgeon report to quantify right clavicle injury, which is causing the plaintiff's pain and which is causing the plaintiff to struggle from lifting heavy objects, as per the industrial psychologist report and conclusions, in the absence of the orthopaedic surgeon report and an eye expert to quantify a blurry vision which allegedly caused plaintiff to struggle with studies, the court is not in possession properly to deal with the plaintiff loss of earnings.

General damages

16. The plaintiff is claiming R 1 000 000.00 in respect of general damages. The defendant has not yet rejected or accepted the plaintiff's injuries as serious and claim for general damages and therefore the court has no jurisdiction to entertain the issue of general damages. **See Road Accident fund vs Duma & 3 similar cases, 2013 (6) SA 9 SCA.**

Future medical expenses

17. According to Dr Ntimbani (Neurosurgeon) report, read together all experts appointed on behalf of the plaintiff, it is common cause that the plaintiff will require future treatment.

Conclusion

18. Having regard to above, and in the absence of the orthopaedic surgeon report the court is not in possession to deal with the plaintiff's loss of income and in the absence of the Road accident fund accepting that the plaintiff's injuries are

serous, the court lacks jurisdiction to entertain the plaintiff's claim in respect of the general damages.

Order

19. In the result, I make the following order:

1. The application in terms of Rule 38(2) is hereby granted.
2. The defendant is 100% liable of the plaintiff's proven and or agreed damages.
3. The issue of liability is separated from the issue of quantum in terms of Rule 33(4) of the Uniform Rules of the court.
4. The issue of loss of income and general damages are hereby postponed *sine die*.
5. The defendant is ordered to provide the plaintiff with an undertaking in terms of Section 17(4) (a) of the Road Accident Fund Act.
6. The defendant shall pay the plaintiff's taxed or agreed party and party costs on the High Court scale, including the costs of counsel on scale B and reasonable costs of expert reports delivered, within the discretion of the taxing master


F MATIKA
Acting Judge of the
High Court of South Africa
Gauteng Division, Pretoria

For the plaintiff
Adv Masina
Instructed by:
Biyela & Associates

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For the Defendant: No Appearances

Date of hearing: 08 December 2025

Date of Judgement: 02 February 2026