

**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: 325/2023

In the matter between:

TSIETSI ELVIS NTOI

PLAINTIFF

[Identity Number: 89[...]]

and

ROAD ACCIDENT FUND

DEFENDANT

[RAF Link Number: 4752912]

[Claim: 502/12654425/00/1]

Neutral citation: *Ntoi v Road Accident Fund* (325/2023) [2026] ZAFSHC 36 (30 January 2026)

Coram: Van Zyl, J

Heard: 12 March 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by e-mail and released to SAFLII. The time and date for hand-down is deemed to be 9h30 on 30 January 2026.

Summary: Motor vehicle accident — damages — claim against Road Accident Fund — whether plaintiff entitled to pursue general damages at trial where Road Accident Fund had not accepted or rejected serious injury assessment report — discrepancies between expert reports – impact upon adjudication of claims for loss of earnings and future medical expenses.

ORDER

1 The defendant is 100% liable for the payment of the agreed or proven damages of the plaintiff.

2 The adjudication of the claim for general damages is postponed to the pre-trial roll of 16 March 2026.

3 The adjudication of the claims for loss of earnings and future medical expenses is postponed until the plaintiff has rectified, if possible, the issues in respect of the differences between the reports of Ms Delpont and Ms Van Jaarsveld, respectively, and is ready to address Van Zyl J on it by means of oral argument. Once the plaintiff is ready to do so, a date for the hearing of the matter (on a part heard basis) is to be arranged in conjunction with the secretary of Van Zyl J.

4 The costs stand over for later adjudication.

JUDGMENT

Van Zyl J

[1] In this action the plaintiff is claiming damages which he suffered as a result of a motor vehicle accident which occurred on 26 December 2017, between Bloemfontein and Botshabelo, Free State province. At the time of the accident the plaintiff was a passenger in the vehicle driven by the insured driver.

[2] On 22 June 2023 the defendant conceded the merits of the action and made a settlement offer to the plaintiff's attorneys of record on the basis that the ensured driver was the sole cause of the accident and that the defendant, therefore, is 100% liable for such damages as may be proven by the plaintiff. The said offer was handed in as exhibit 'A'. The plaintiff accepted the said offer and I will consequently make an order accordingly.

[3] According to the pleadings the remaining outstanding issues are therefore loss of earnings, general damages and future medical expenses. The plaintiff abandoned his claim for past medical expenses.

[4] On the first day on which the trial was supposed to start, the plaintiff was represented by Mr Bahlekazi and the defendant was represented by Ms Gouws. The parties requested that the matter stands down until the following day for settlement proposals. The next day Ms Gouws indicated that she does not hold any instructions in relation to the matter and can consequently not continue representing the defendant in the action. She indicated that she was withdrawing from the further proceedings. I excused her from further attendance and the matter continued on a default basis.

[5] At the commencement of the subsequent proceedings, the plaintiff moved an application in terms of rule 38(2) of the Uniform Rules of Court, which application had been filed prior to the date of the hearing of the action. In the said application the plaintiff was the applicant and the defendant was the respondent.

[6] I granted an order in terms of the notice of motion, which reads as follows:

‘1. That the Applicant be granted leave to present his expert evidence in respect of the issues of quantum, by way of affidavit in terms of Rule 38(2) of the Uniform Rules of Court, read together with Section 3(1)(c) of the Law of Evidence Act, 44 of 1988.

2. That the Court admits into evidence the following:

2.1 Lodgement documentation delivered, consisting of, *inter alia*:

2.1.1 RAF1 Claim form;

2.1.2 Copy of the Statutory Medical Report (SMR);

2.1.3 Copy of Accident Report;

2.1.4 Copy of Section 19(f) affidavit;

2.1.5 The Applicant's hospital and clinical records.

2.2 Medico-legal reports (including RAF 4 Serious Injury Report, and affidavits of the Applicant's experts pertaining to the issue of quantum, specifically:

2.2.1 Dr. James Duze, Orthopaedic Surgeon;

2.2.2 Dr. James Duze, a medical practitioner for the RAF 4;

2.2.3 Dr Letitia Delport (Occupational Therapist);

2.2.4 Ms S van Jaarsveld (Industrial Psychologist);

2.2.5 Mr J Sauer (Actuary).

2.3 The collateral evidence provided to the Applicant's expert witnesses.

3. That the costs of this Application be costs in the cause.'

[7] Mr Bahlekazi subsequently presented the evidence of the plaintiff. After the presentation thereof, the plaintiff closed his case.

The evidence of the plaintiff

[8] The plaintiff testified that he was born on 1 November 1989. On 26 December 2017 he was involved in a motor vehicle accident on the road between Botshabelo and Bloemfontein, Free State Province, during which accident he was a passenger in the vehicle driven by the insured driver.

[9] He sustained an injury on his left arm. His left arm is very weak and he cannot lift heavy items.

[10] He also testified that since the accident he experiences neck pain and back pain. He cannot sit for a long period of time. He cannot twist his neck to both sides, since that is too painful.

[11] He testified that since he suffered the injury, his arm is causing him a lot of pain, especially when it is cold.

[12] The plaintiff testified that he cannot stretch or extend his arm to be completely straight like with his other arm.

[13] He used to consult the doctors at Naledi Clinic in Bloemfontein in order for them to attend to his back pain. The explained that his back pain is severe and it gets worse when he sits for longer periods of time. He testified that even being in a sitting position testifying as a witness in court, causes him great pain. He sometimes need to take tablets for the pain in his arm and in his back, for purposes of which he drinks Pain Block.

[14] The plaintiff testified that the accident affected his life in a big way. He usually went around to look for piece jobs and special trips as a taxi driver, but he is no longer able to do so.

[15] According to the plaintiff he stays with the mother of their child and the child in Bloemfontein. He used to assist the mother of his child shifting furniture during cleaning, fetching water (the water supply is quite a distance from their house), cleaning carpets and so forth, none of which chores he can perform anymore.

[16] The plaintiff testified that he suffered severe scarring on his left arm from his elbow up to his wrist. He showed the scarring in court and it was evident that it was very severe. He testified that the scarring on his arm bothers him and he feels compelled to cover his arm when he goes to town where there are many people.

[17] He testified that the accident and his injuries also had an emotional impact upon him. He developed a phobia to ride in vehicles. He also stresses when he thinks of everything he was previously able to do which he cannot do for himself anymore.

[18] At the time of the accident the plaintiff was working as a taxi driver for somebody else. Four affidavits were handed in as exhibits 'B1' to 'B4' which confirm this allegation. The plaintiff covered local trips, such as from Bloemfontein to Langenhovenpark and Botshabelo, and also around town. He also performed special trips, which means long distance trips like from Bloemfontein to Durban or Cape Town.

[19] The plaintiff testified that he earned a weekly income of between R1 500.00 and R1 600.00 depending on how busy the week was. Whenever he could obtain trips where he went to collect staff on behalf of a specific employer and dropped them off, he received R200.00 extra.

[20] After the accident the plaintiff has not been able to work again. He explained that because of his injuries, he cannot drive properly. He can especially not drive for long distances, because of the back pain he suffers when he sits for a long period of time.

[21] When asked whether he could perform other jobs than driving, he explained that he used to help a gentleman to construct tombstones before the accident, but because he can no longer lift heavy items, he cannot perform the work anymore.

[22] According to the plaintiff he will not be able to obtain employment due to the injury to his arm. He is presently receiving support from his brother, who is also driving a taxi.

[23] The plaintiff testified that he has been receiving a SRD grant of R350.00 per month, the payment of which grant started in 2023 and he is presently still receiving the said grant.

[24] At the conclusion of the plaintiff's evidence and the close of the plaintiff's case, Mr Bahlekazi requested leave to file heads of argument in due course, instead of addressing the court orally. I acceded to the request.

General damages

[25] The plaintiff is claiming general damages. In support of this claim, Mr Bahlekazi stated as follows in his heads of argument:

'7. Regulation 3(3)(dA) provides that the Fund or an agent must, within 90 days from the date on which the Serious Injury Assessment Report was sent by registered post or delivered by hand to the Fund or to the agent who in terms of Section 8 must handle the claim, accept or reject the serious injury assessment report or direct that a third party submit himself or herself to a further assessment.

8. The Plaintiff furnished the Defendant with the Serious Injury Assessment Form (RAF4) in June 2022 together with a Medico Legal Report. The Defendant did not object to the Serious Injury Assessment Form within 90 days as required by Regulation 3(3). Again the Plaintiff attached the Serious Injury Assessment Form to the Summons, the Defendant in its plea did not indicate its objection to the Serious Injury Assessment Form. Thus, I submit that the Serious Injury Form by Dr Duze was accepted by the Fund (the Defendant) by its conduct.

9. I submit therefore that the Plaintiff has qualified to be awarded General Damages'

[26] In terms of s 17(1)(b) of the Road Accident Fund Act, 56 of 1996 ('the Act'), the following condition is applicable:

'... Provided that the obligation of the Fund to compensate a third party for non-pecuniary loss shall be limited to compensation for a serious injury as contemplated in subsection (1A) and shall be paid by way of a lump sum.'

[27] The said s 17(1A)(a) determines as follows:

‘Assessment of a serious injury shall be based on a prescribed method adopted after consultation with medical service providers and shall be reasonable in ensuring that injuries are assessed in relation to the circumstances of the third party.’

[28] Regulation 3 of the Road Accident Fund Regulations, 2008, deals with the assessment of serious injury in terms of s 17(1)(A).

[29] In terms of Regulation 3(1)(a) a third party who wishes to claim compensation for non-pecuniary loss shall submit himself or herself to an assessment by a medical practitioner in accordance with these Regulations.

[30] In terms of Regulation 3(3)(a) a third party whose injury has been assessed in terms of the Regulations shall obtain from the medical practitioner concerned a serious injury assessment report.

[31] Regulation 3(3)(c) and further determines as follows:

‘(c) The Fund or an agent shall only be obliged to compensate a third party for non-pecuniary loss as provided in the Act if a claim is supported by a serious injury assessment report submitted in terms of the Act and these Regulations and the Fund or an agent is satisfied that the injury has been correctly assessed as serious in terms of the method provided in these regulations.

(d) If the Fund or an agent is not satisfied that the injury has been correctly assessed, the Fund or an agent must:

(i) reject the serious injury assessment report and furnish the third party with reasons for the rejection; or

(ii) direct that the third party submit himself or herself, at the cost of the Fund or an agent, to a further assessment to ascertain whether the injury is serious, in terms of the method set out in these Regulations, by a medical practitioner designated by the Fund or an agent.

(dA) the Fund or an agent must, within 90 days from the date on which the serious injury assessment report was sent by registered post or delivered by hand to the Fund or to the agent who in terms of section 8 must handle the claim, accept or reject the serious injury assessment report or direct that a third party submit himself or herself to a further assessment.’

[32] In HB Klopper, *RAF Practitioners Guide*, (November 2025) at A-50(4) to A-50(5) and A-68, the following relevant principles are stated:

'The time for the RAF to respond to the submission of a RAF 4 serious injury report has been fixed at 120 days. Failure by the RAF to react within the 120 days, will result in the RAF 4 not being accepted.

[In terms of a new regulation 3(3)(d)(ii). The regulation is not retrospective.]

The determination of whether a serious injury has been sustained must be done as prescribed in the regulation. A court is not able to do such an assessment and until such assessment has been made and the claimant has shown that he has sustained a serious injury, a claimant's right to recover non-patrimonial loss from the RAF is suspended. Where there were two RAF 4 assessments, one of which was rejected but the other admitted by the RAF during a pre-trial conference, the second assessment thus admitted remains valid and cannot subsequently be rejected. It is also uncertain whether a failure to reject, can result in applications for review but a *mandamus* compelling the RAF to decide can be obtained. Failure of the RAF to comply with a court order in this regard, does not have the effect that the injuries are then deemed to be serious.

A plaintiff's remedy is a formal review in terms of PAJA after full exhaustion of all internal appeal processes in terms of reg 3 by referral with a RAF 5 to the appeal tribunal of the Health Professions Council. A court has no jurisdiction to determine compensation for non-patrimonial loss in a trial or default judgment where neither the RAF nor the Appeal Tribunal has not classified the injury as serious.

[*Road Accident Fund v Oupa William Lebeko* (802/11) [2012] ZASCA 159; *Road Accident Fund v Duma and three related cases (Health Professions Council of South Africa as Amicus Curiae)* [2012] ZASCA 169, [2013] 1 All SA 543 (SCA). Also see Selman: "Much ado about Duma: *RAF v Duma and three related cases* [2013] 1 All SA 543 (SCA)" August 2013 *De Rebus* 55. See *Van Heerden v Road Accident Fund* (6644/2011) [2014] ZAGPPHC 958; *Zaina v Road Accident Fund* (CC55528/2015) [2017] ZAGPPHC 592 (25 August 2017); *Mokhomong v Road Accident Fund* [2021] ZAGPPHC 670; *Makuapane v Road Accident Fund* (9077/2022) [2023] ZAGPPHC 15 (19 January 2023); *Knoetze obo Malinga and Another v Road Accident Fund* (77573/2018 & 54997/2020) [2022] ZAGPPHC 819 (2 November 2022); *Phumudzo v Road Accident Fund* (8651/2019) [2023] ZAGPPHC 201 (24 March 2023); *K obo M and Another v Road Accident Fund* 2023 (3) SA 125 (GP).]

...

However, where the RAF does not accept the determination of its own expert, a court is not empowered to rely on the thus disputed determination to make an award of general damages and the matter must be dealt with according to the prescripts of regulation 3.

[*Faria v Road Accident Fund* (2210/12) [2013] ZAGPJHC 63 reversed on appeal – see *Road Accident Fund v Faria* (567/2013) [2014] ZASCA 65; 2014 (6) SA 19 (SCA).]

Where the inaction of the RAF results in doubt, whether it has accepted or rejected the RAF 4 assessment, a court is not entitled to proceed to consider general damages. The appropriate remedy is either an appeal to the Appeal Tribunal or an application in terms of the PAJA 3 of

2000. A tacit acceptance by the RAF of the seriousness of an injury during “without prejudice” settlement negotiations is valid, and a court may then deal with the assessment of the plaintiff’s non-patrimonial loss.

[*Matabane obo M v Road Accident Fund* (2014/31190) [2015] ZAGPJHC 248 (30 October 2015) applying *Road Accident Fund v Duma and three related cases (Health Professions Council of South Africa as Amicus Curiae)* 2013 (6) SA 9 (SCA); *Van Tonder v Road Accident Fund* (2023/013183) [2024] JOL 66948 (GJ).]

...

The determination of whether a serious injury has been sustained must be done as prescribed in the regulation. A court is not able to do such an assessment and until such assessment has been made and the claimant has shown that he has sustained a serious injury, a claimant’s right to recover non-patrimonial loss from the RAF is suspended. A court is not empowered to adjudicate general damages where the RAF has neither accepted nor rejected a serious injury report.

[*Road Accident Fund v Oupa William Lebeko* (802/11) [2012] ZASCA 159; *Road Accident Fund v Duma and three related cases (Health Professions Council of South Africa as Amicus Curiae)* 2013 (6) SA 9 (SCA); *Mphala v RAF* (698/16) [2017] ZASCA 76 (1 June 2017); *Van Der Westhuizen v Road Accident Fund* [2019] JOL 44858 (GJ).]

(My emphasis)

[33] I am consequently of the view that since the defendant has not accepted or rejected the plaintiff’s RAF 4 serious injury assessment report of Dr Duze, the court does not have jurisdiction to adjudicate the plaintiff’s claim for general damages at this stage.

[34] I consequently consider it apposite that the said claim be postponed to the pre-trial roll.

Loss of earnings

[35] In *Southern Insurance Association Ltd v Bailey* NO 1984(1) 98 (A) at 113G to 114A the principles for an assessment of loss of earnings or earning capacity were set forth:

‘Any enquiry into damages for loss of earning capacity is of its nature speculative, because it involves a prediction as to the future, without the benefit of crystal balls, soothsayers, augurs or oracles. All that the Court can do is to make an estimate, which is often a very rough estimate, of the present value of the loss.

It has open to it two possible approaches.

One is for the Judge to make a round estimate of an amount which seems to him to be fair and reasonable. That is entirely a matter of guess work, a blind plunge into the unknown.

The other is to try to make an assessment, by way of mathematical calculations, on the basis of assumptions resting on the evidence. The validity of this approach depends of course upon the soundness of the assumptions, and these may vary from the strongly probable to the speculative. It is manifest that either approach involves guess work to a greater or lesser extent. But the Court cannot for this reason adopt a *non possumus* attitude and make no award.’ (My emphasis)

The evidence:

[36] I have already dealt with the *viva voce* evidence presented by the plaintiff.

[37] As indicated earlier, the respective expert reports were admitted into evidence in terms of the rule 38(2) order. The plaintiff is relying upon the reports of four experts for purposes of proving its quantum in relation to the plaintiff’s loss of earnings (and general damages). These reports, as placed before me, are the following:

1. The report and the RAF 4 serious injury assessment report of Dr Duze, an Orthopaedic Surgeon.
2. The report of Ms Delport, an Occupational Therapist.
3. The report of Ms van Jaarsveld, an Industrial Psychologist.
4. The report of Mr Sauer, an Actuary.

[38] In her report, Ms Delport referred to and relied upon the report of Dr Duze. The report of Ms Delport is, at the top right-hand side thereof, dated 9 September 2022. The date of evaluation is indicated on page 2 of the report to have been 14 September 2022. The report consists of 25 pages.

[39] Ms van Jaarsveld, in her report, referred to and relied upon the reports of both Dr Duze and Ms Delport. She also had the serious injury assessment report of Dr Duze available when she compiled her report. The report of Ms van Jaarsveld reflects at page 1 thereof that the date of her assessment of the plaintiff was 14 September 2022.

[40] The report and calculation of Mr Sauer, the actuary, is dated 20 October 2022. From a reading of the said report, it is evident that the report of Ms van Jaarsveld forms the basis of the projections made for purposes of the calculation of loss of earnings.

[41] I studied all the aforesaid reports in meticulous detail for purposes of drafting this judgment. From a perusal of the report of Ms van Jaarsveld, it is evident that where she

refers to the reports which she had available when she compiled her report, as reflected at para 3.1 of her report, she indicates a date in respect of the report of Ms Delport, which date is 19 September 2022. She recorded in detail certain extracts from the report of Ms Delport. Some of these extracts reflect the date of the report of Ms Delport to be 19 September 2022, but others reflect the date of the report of Ms Delport to be 14 September 2022. I accept that this may be a mere typing error considering that the report of Ms Delport is dated 19 September 2022, whilst her assessment of the plaintiff occurred on 14 September 2022.

[42] However, what is disturbing is that many (if not most) of the alleged extracts from Ms Delport's report as quoted in the report of Ms van Jaarsveld, do not appear in the report of Ms Delport. The contents of some of the extracts are even contradictory to the contents of the findings recorded in the report of Ms Delport. The page references of the relevant extracts as contained in the report of Ms van Jaarsveld, do also not correspond with the relevant pages of the report of Ms Delport. The last three alleged extracts from the report of Ms Delport as reflected in the report of Ms van Jaarsveld, are indicated to appear on pages 29 to 31 of the report of Ms Delport. However, as indicated earlier, the report of Ms Delport only consists of 25 pages.

[43] Without analysing all the differences and contradictions between the alleged extracts from the report of Ms Delport, as they appear in the report of Ms van Jaarsveld, in comparison with the contents of the report of Ms Delport, I will refer to the following as mere examples of what I stated above.

[44] At page 16 of the report of Ms van Jaarsveld, the following extract appears with reference to page 22 of the report of Ms Delport:

'Thought processes: The client had an impairment in thought process. Delayed thoughts were observed. He would keep quiet for a long time after a question was asked as if he is thinking the question over, and then the client would ask for the question to be repeated again.'

[45] Contrary to the aforesaid, the following extract regarding 'thought processes' appears at page 16 of the report of Ms Delport (and not page 22 as indicated in the report of Ms van Jaarsveld):

'Thought processes

The evaluator noted no impairment during the assessment.'

[46] A further example is reflected on the same pages of the respective reports. In the report of Ms van Jaarsveld, the following extract appears:

'Concentration: During the evaluation, the client did not present with an adequate attention span. He was easily distracted. The client's concentration and attention were limited and difficult for him to maintain. The client reported that he makes numerous mistakes during task completion. This was also demonstrated in the Thurstone questionnaire. The client demonstrated difficulty with regards to understanding instructions regarding standardized testing. His response speed was slow and delayed. His quality of work was poor.'

[47] In contradiction to the aforesaid, the following extract actually appears in the report of Ms Delport:

'Concentration: During the evaluation, the client presented with adequate attention span for his cognitive level of function.

Speed of task performance was affected, due to the tasks being unfamiliar to the client.

The client experienced difficulty to understand instructions in English, a translator was used.'

[48] At page 17 of the report of Ms van Jaarsveld the following extract appears as allegedly reflected on page 23 of the report of Ms Delport:

Decision-making and judgment: The client demonstrated impairment with decision-making and judgment during my assessment. Problem solving: The client did not have the adequate problem-solving abilities. He experiences difficulty with more abstract problem-solving.'

[49] In contradiction to the aforesaid, the following appears at page 16 (and not page 23) of the report of Ms Delport:

'Decision-making and judgment:

During the evaluation, no impairments were observed. The client mentioned that he has no difficulty in making decisions regarding big life changing decisions.

Problem-solving:

The client has the ability to solve problems on his cognitive level of functioning.'

[50] An example of an extract recorded in the report of Ms van Jaarsveld at page 13 as allegedly being an extract from page 12 of the report of Ms Delport, is the following:

‘The client scored to experience 48% level of disability (severe) when he performs activities that involves his lower back.’

This finding appears nowhere in the report of Ms Delport.

[51] It is evident that Ms van Jaarsveld, in order to have reached her conclusions, relied heavily on the relevant extracts from the report of Ms Delport. One example as illustration of this fact, appears at para 6.7 of the report of Ms van Jaarsveld:

‘6.7 In light of Mr Ntoi’s physical limitations and current functioning and opinion of Dr Duze (Orthopaedic Surgeon 9 June 2022) and Ms Delport (Occupational Therapist, 14 September 2022), the writer is of the opinion that, taking into account the core activities of a Taxi Driver (refer to Occupational Network, 2022), as well as the associated physical requirements posed on a Taxi Driver (refer to Occupational Information Network, 2022), **Mr Ntoi is no longer able to perform the work of a Taxi Driver or any other occupation requiring physical abilities.** Ms Delport (Occupational Therapist, 14 September 2022), p. 30) states the following in this regard: *‘With the evaluation results taking into consideration, I am of the opinion that this client will experience difficulty to perform his full job description as prior to the accident, due to his physical/pain and cognitive impairment. At this stage I will not recommend this client to return to being a taxi driver.’* The report of Ms Delport does not even consist of 30 pages and in any event does not reflect this quoted opinion.

[52] Consequently, on the papers as they currently stand, the conclusions of Ms van Jaarsveld appears not to be supported by the report of Ms Delport which currently serves before Court.

[53] I wish to explicitly state that the above-mentioned issues regarding the aforesaid two reports, are in no way intended to be an attack or reflection on the integrity of either of the two witnesses. On face value it appears that the explanation may possibly be that there is another or an additional report of Ms Delport which has not been placed before me, but which was in the possession of Ms van Jaarsveld when she compiled her report.

[54] In the circumstances I cannot adjudicate the issue of damages in relation to loss of earnings based on the contents of the reports of Ms Delport and Ms Van Jaarsveld and

consequently also not based on the consequent report of the actuary. I will first have to be addressed by the plaintiff by means of oral argument on the issues in respect of the aforesaid two reports and the situation will have to be rectified, if possible, before I can determine the damages in respect of loss of earnings.

[55] I therefore intend making an order that once the plaintiff is ready to do so, the matter is to serve before me on a date which is to be arranged with my secretary.

Section 17(4)(a) undertaking:

[56] The plaintiff is also seeking an order in respect of future medical expenses in the form of an undertaking in terms of s 17(4)(a) of the Act.

[57] In HB Klopper, *RAF Practitioners Guide*, *supra*, at A-74, para 7.8.2 the following is stated:

‘In cases where application for default judgment is made and provided that the claimant has proved future medical expenses, a court may order the issue of a s 17(4)(a) undertaking.

[*Van der Walt v Road Accident Fund* (2014/12763) [2015] ZAGPJHC 86; *K obo M and Another v Road Accident Fund* 2023 (3) SA 125 (GP); *Knoetze obo Malinga and Another v Road Accident Fund* (77573/2018 & 54997/2020) [2022] ZAGPPHC 819 (2 November 2022); [2023] 1 All SA 708 (GP); *K obo M v RAF* 2023 (3) SA 125 (GP); *Kubheka v Road Accident Fund* (2017/497) [2023] ZAGPJHC 1216 (25 October 2023).]’

[58] The question whether a plaintiff has proved future medical expenses, will have to be decided based on the totality of the evidence before Court.

[59] Considering the issues regarding the reports of Ms Delport and Ms Van Jaarsveld which I have already dealt with above, I am of the view that the claim for future medical expenses can also, like the loss of earnings claim, only be adjudicated once the issues regarding the reports have been rectified and I have been addressed on it by means of oral argument.

Costs:

[60] Considering that I am currently unable to adjudicate the claims for loss of earnings, future medical expenses (and general damages) I cannot make a determination regarding

the costs of the action at this stage. Costs are therefore to stand over for later adjudication.

Order:

[61] The following order is consequently made:

- 1 The defendant is 100% liable for the payment of the agreed or proven damages of the plaintiff.
- 2 The adjudication of the claim for general damages is postponed to the pre-trial roll of 16 March 2026.
- 3 The adjudication of the claims for loss of earnings and future medical expenses is postponed until the plaintiff has rectified, if possible, the issues in respect of the differences between the reports of Ms Delport and Ms Van Jaarsveld, respectively, and is ready to address Van Zyl J on it by means of oral argument. Once the plaintiff is ready to do so, a date for the hearing of the matter (on a part heard basis) is to be arranged in conjunction with the secretary of Van Zyl J.
4. The costs stand over for later adjudication.

C VAN ZYL
JUDGE OF THE HIGH COURT

Appearances:

For the Plaintiff:	NM Bahlekazi
Instructed by:	Mlozana Attorneys Inc., Bloemfontein
For the Defendant:	No appearance