

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

Not reportable
Case no: 5355/2022

In the matter between

NTSIKELELO SONDLLO MNCWABE

PLAINTIFF

and

THE ROAD ACCIDENT FUND

DEFENDANT

Neutral citation: *Mncwabe v The Road Accident Fund* (5355/2022) [2026] ZAFSHC 59 (17 February 2026)

Coram: PARKS AJ

Heard: 28 January 2026

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 14h00 on 17 February 2026

Summary: Road Accident Fund – quantum – loss of earning capacity – passenger – facial and orbital fractures – lost career aspirations – default judgment – separation of issues.

ORDER

- 1 The defendant is liable for payment of 100% of the plaintiff's proven damages.
- 2 The defendant shall pay the plaintiff an amount of R1 900 000 (one million nine hundred thousand rand) in respect of the plaintiff's claim for loss of earning capacity.
- 3 The abovementioned amount will be paid into the plaintiffs' attorney's trust account, the details of which are as follows:

BANK: FIRST NATIONAL BANK
 ACCOUNT HOLDER: MLOZANA ATTORNEYS INC
 CODE NR: 230534
 TYPE OF ACCOUNT: TRUST ACCOUNT
 REF NO: MAMOGWE/RAF SETTLEMENT

4 The abovementioned payment will be made within 180 (one hundred and eighty) calendar days from the date of this order

5 Should payment as aforesaid not be made within 180 (one hundred and eighty) days from the date of this order, the defendant shall be liable for interest on the amount at the prevailing interest rate, calculated from the 15th calendar day after the date of this order, till the date of payment.

6 The defendant shall pay the plaintiff's taxed or agreed party and party costs up to and including 27th and 28th January 2026, including the counsel fees on scale B, on the High Court scale, which shall include the reasonable fees of the following experts:

6.1 Dr MW Hlalele, Occupational Health Practitioner Medical Report

6.2 Dr MW Hlalele, RAF 4 Serious Injury Report

6.3 Dr MR Mudau, Neurologist Medical Report

6.4 Dr MR Mudau, RAF 4 Serious Injury Report

6.5 Dr DS Hogg, Ear, Nose and Throat Surgeon Medical Report

6.6 Dr DS Hogg, RAF 4 Serious Injury Report

6.7 Dr R Kyamusire, Ophthalmologist Medical Report

6.8 Dr V Rughubar, Maxillofacial and Oral Surgeon Medical Report

6.9 Ms L Delport, Occupational Therapist Report

6.10 Mr T Tsikai, Industrial Psychologist Medical Legal Report

6.11 Mr J Sauer, Actuary

7 The plaintiff shall allow the defendant 180 (one hundred and eighty) calendar days to make the payment of the taxed or agreed High Court costs.

8 Should payment of the aforesaid costs not be made within 180 (one hundred and eighty) calendar days from the date of the settlement/taxation, the defendant shall be liable for payment of interest calculated at the prescribed rate, from 15 (fifteen) days after the date of settlement/stamped allocatur, to the date of payment.

9 In terms of rule 33(4), the plaintiffs' claim for general damages is separated from the issues, and the heads of damages in respect of general damages are to be adjudicated at a later stage.

JUDGMENT

Parks AJ

Introduction

[1] The plaintiff, an adult male, instituted a claim for damages against the defendant arising from injuries sustained in a motor vehicle collision. On 20 January 2019, the 28-year-old plaintiff was a passenger in an Audi with registration number FNC [...], traveling along the N8 and driven by Vusi Tlhatswayo (the insured driver). The driver lost control, causing the vehicle to crash into a tree. The plaintiff sustained multiple injuries, including orbital and zygomatic fractures, a swollen right eye, fractures of the front wall of the frontal sinus, the lower right jaw, and several closed fractures of the skull and facial bones.

[2] The defendant filed three special pleas, all of which I dismissed, with reasons provided at the start of the proceedings. Subsequently, the defendant's legal representative requested to be excused on the grounds that no instructions had been received from the defendant. The request was granted, and the trial continued on a default basis. An application under rule 38(2) of the Uniform Rules of Court was granted, allowing the admission of the respective expert reports.

Facts

[3] The plaintiff's *viva voce* evidence, which remains uncontested, is that he arrived in Bloemfontein on 19 January 2019, from the Eastern Cape to attend a course. Upon his arrival, he was picked up by the insured driver and transported to the air force base, where he was to stay for the duration of the course. Later that day, he accompanied the insured driver to the outskirts of Bloemfontein in search of food, during which they joined other men at a car wash. In the early hours of 20 January 2019, at around 03:00, they returned to the air force base.

[4] The occupants of the vehicle were the plaintiff, who was sitting behind the insured driver, the insured driver, and the insured driver's girlfriend. About one kilometer from the starting point, while the plaintiff was using his cell phone, he realised that the vehicle had come to a stop. He held onto the driver's seat, asked what had happened, and saw dust, lights, and a large tree. His nose was bleeding, and he complained of sinus pain and a headache. When he got out of the vehicle, he realized it had hit a tree.

An ambulance arrived, and the plaintiff lost consciousness while being transported, later regaining consciousness at the hospital.

[5] While still in high school, the plaintiff participated in a flight program sponsored by the local municipality, during which he flew with a qualified flight instructor. After finishing school in 2009, he continued in the program, earning several hours of flight time before stopping due to a lack of funds. He then completed an internship in business administration at Old Mutual. In 2012, he joined the South African Defence Force as an apprentice aircraft mechanic, qualifying in 2016 and earning a N3 qualification in 2014. In 2019, he moved to Bloemfontein to start training as a flight engineer. The accident happened during the weekend of his arrival in Bloemfontein.

[6] The plaintiff testified that he was later offered an opportunity to attend a flight course in Cuba, having accumulated a number of flight hours, but was declared medically unfit during the preparatory medical examinations due to problems with his eyesight and swelling of his right eye. As a result of the accident, he experiences lightheadedness, persistent headaches, and neck pain, requires ongoing medication, and has difficulty adjusting his helmet on the right side in his capacity as a flight engineer. At the time of the accident, he held the rank of corporal and was promoted to sergeant in 2022. He stated that, due to his age, he can no longer qualify as a pilot, a career path that would have remained available to him but for his disqualification from the Cuban training program.

The expert reports

[7] The neurologist's report states that the X-rays showed multiple fractures and that the plaintiff experienced a mild concussive head injury, indicated by post-traumatic amnesia and the aftermath of the accident. The neurologist believes that the plaintiff suffers from moderate to severe post-traumatic headaches, which are poorly managed. He further concludes that the plaintiff's productivity, employment prospects, and insurability have been adversely affected by the accident-related sequelae and recommends that appropriate compensation be awarded for the injuries sustained.

[8] The ear, nose, and throat surgeon stated that the X-rays showed a fracture involving the plaintiff's right orbit and right zygoma. It was also noted that the nasal septum was slightly deviated at the mid-septal area; however, the clinical examination

revealed that the nasal septum was in a central position and that the plaintiff's visual fields were normal. Examination of the neck showed that the plaintiff could extend, flex, and rotate his neck to both the left and the right without any pain.

[9] The maxillofacial and oral surgeon stated, after a clinical examination, that the mandible was normal, but numbness was present in the maxilla affecting the upper right teeth. Significant depression was observed over the nasal bridge and the body of the right zygoma. There was altered sensation along the lateral side of the nose on the right, although eye movements appeared normal. The surgeon's diagnosis was that the plaintiff may have sustained fractures to the right zygomatic complex and the fronto-nasal-ethmoidal complex.

[10] The occupational therapist's report states that the plaintiff began training for a pilot's license between 2009 and 2011 but did not complete it due to financial hardship. At the time of the accident, he had resumed pilot training but was unable to complete it due to facial injuries and visual issues resulting from the accident. Wearing a flight helmet causes pain on the right side of his face because of pressure sensitivity over areas that were previously fractured. He also experiences occasional blurring of vision in his right eye, dizziness episodes, and neck discomfort when holding static neck positions. The occupational therapist found that the plaintiff shows impairments directly caused by the accident-related injuries.

[11] The report from the industrial psychologist states that the plaintiff earned an instructional skills certificate and a course qualification for assessors in 2022. It further mentions that he remains eager to pursue a career as a pilot and has shown interest in studying law. The industrial psychologist believes that the plaintiff's accident-related limitations are likely to negatively impact his future career goals.

[12] Following an examination, the ophthalmologist stated that the plaintiff has good vision in both eyes, with a visual acuity of 20/20 in each eye. The ophthalmic assessment was completely normal. It was further determined that the injuries from the accident did not affect the plaintiff's visual system. Therefore, the plaintiff has no vision impairment and a favorable visual outlook, with no expected future health issues related to the injuries from the motor vehicle accident.

[13] In the absence of any evidence to the contrary, I find that the collision with a tree on the same side of the road where the insured driver was traveling occurred due to the insured driver's negligence. The insured driver drove at an excessive speed, failed to keep the insured vehicle under proper and/or adequate control, failed to apply the brakes or brake in a timely manner, and failed to avoid the collision by exercising reasonable care and diligence.

[14] The plaintiff's pleaded claim for loss of earning capacity, as set out in the particulars of claim delivered in October 2022, amounted to R1 900 000. An actuarial report compiled in May 2025, however, reflects a significantly higher loss of R3 265 571 and R3 094 284, respectively, including increases. No application was made to amend the particulars of claim to accommodate this substantial upward revision. Despite this procedural omission, the plaintiff nonetheless sought to rely on, and persisted with, the increased figures during oral argument.

[15] In considering the reports submitted by the various experts, together with the plaintiff's undisputed evidence, it is evident that the accident materially impacted the plaintiff's ability to participate in the pilot training programme and has, without doubt, influenced his future career aspirations.

[16] I accordingly make the following order:

- 1 The defendant is liable for payment of 100% of the plaintiff's proven damages.
- 2 The defendant shall pay to the plaintiff an amount of R1 900 000 (one million nine hundred thousand rand) in respect of the plaintiff's claim for loss of earning capacity.
- 3 The abovementioned amount will be paid into the plaintiffs' attorney's trust account, the details of which are as follows:

BANK:	FIRST NATIONAL BANK
ACCOUNT HOLDER:	MLOZANA ATTORNEYS INC
CODE NR:	230534
TYPE OF ACCOUNT:	TRUST ACCOUNT
REF NO:	MAMOGWE/RAF SETTLEMENT

- 4 The abovementioned payment will be made within 180 (one hundred and eighty)

calendar days from the date of this order

- 5 Should payment as aforesaid not be made within 180 (one hundred and eighty) days from the date of this order, the defendant shall be liable for interest on the amount at the prevailing interest rate, calculated from the 15th calendar day after the date of this order, till the date of payment.
- 6 The defendant shall pay the plaintiff's taxed or agreed party and party costs up to and including 27th and 28th January 2026, including the counsel fees on scale B, on the High Court scale, which shall include the reasonable fees of the following experts:

- 6.1 Dr MW Hlalele, Occupational Health Practitioner Medical Report
- 6.2 Dr MW Hlalele, RAF 4 serious injury report
- 6.3 Dr MR Mudau, Neurologist Medical Report
- 6.4 Dr MR Mudau, RAF 4 Serious Injury Report
- 6.5 Dr DS Hogg, Ear, Nose and Throat Surgeon Medical Report
- 6.6 Dr DS Hogg, RAF 4 Serious Injury Report
- 6.7 Dr R Kyamusire, Ophthalmologist Medical Report
- 6.8 Dr V Rughubar, Maxillofacial and Oral Surgeon Medical Report
- 6.9 Ms L Delport, Occupational Therapist Report
- 6.10 Mr T Tsikai, Industrial Psychologist Medical Legal Report
- 6.11 Mr J Sauer, Actuary

- 7 The plaintiff shall allow the defendant 180 (one hundred and eighty) calendar days to make the payment of the taxed or agreed High Court costs.

- 8 Should payment of the aforesaid costs not be made within 180 (one hundred and eighty) calendar days from the date of the settlement/taxation, the defendant shall be liable for payment of interest calculated at the prescribed rate, from 15 (fifteen) days after the date of settlement/stamped allocatur, to date of payment.

- 9 In terms of rule 33(4), the plaintiffs' claim for general damages is separated from the issues and the heads of damages in respect of general damages are to be adjudicated at a later stage.

C PARKS

ACTING JUDGE OF THE HIGH COURT

Appearances

For the plaintiff: L Mfazi
Instructed by: Mlozana Attorneys, Bloemfontein

For the defendant: Non-appearance
Instructed by: State Attorney, Bloemfontein.