IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 36141/13

(1) REPORTABLE:~~YES~~/NO

(2) OF INTERST TO OTHER JUDGES :~~YES~~/NO

(3) REVISED

DATE 2/02/2026

SIGNATURE

In the matter between:-

ADV APJ BOUWER N.O (CURATOR AD LITEM OF [...] K[...]) **PLAINTIFF**

And

ROAD ACCIDENT FUND **DEFENDANT**

JUDGEMENT

MATIKA AJ:

Introduction

1. In this matter, the plaintiff, brought an application for default judgment against the Defendant, the Road Accident Fund ("Hereinafter to be referred to as RAF").The application emanated from the action which the Plaintiff instituted against RAF for compensation arising from the negligent driving of the insured driver in terms of section 17 of the Road Accident Fund Act[1].

Facts

2. The plaintiff was as a passenger in motor vehicle accident that occurred on the 24 October 2008.
3. On 28 April 2023, Justice Munzhelele struck out the defendant's defence for their failure to comply with a compelling order dated 8 August 2022.
4. Application for default judgement and notice of set-down for the 09 December 2025, were properly served on the defendant.
5. The merits were previously settled together with future medical treatment in terms of section 17(4) (a) of the Road Accident Fund Act.
6. On 6 June 2024, Justice Ramlal ordered the defendant to pay R2 000 000.00 in respect of the plaintiff's claim for general damages and the court ordered that a trust be created.
7. The plaintiff is assisted by a curator ad litem Adv APJ Bouwer and he filed a report.
8. According to the Plaintiff's neurosurgeon, the plaintiff suffered a significant concussive brain injury with a Glasgow Coma Scale (GCS) of 9/10 recorded in available Hospital/clinical records, she underwent a tracheotomy and was in

[1] Act 56 of 1996

comma for two months and was on mechanical ventilation in the ICU .She present with possible focal brain damage with a slight left hemiparesis (albeit less than optimal cooperation) and Her extent of posttraumatic amnesia is also in favour of a significant concussive brain injury /diffuse axonal damage, ongoing neurocognitive and physiological Sequalae have been diagnosed.

9. The plaintiff was 17 years of age at the time of the accident and a scholar doing grade 11.

10. Post-accident due to the injuries sustained in the accident in question, she is a recipient of government permanent disability grant from the year 2016.

Issues

11. The matter was before me for argument in respect of loss of income only.

12. The Plaintiff, on behalf of the patient, is claiming an amount of R 1 400 000.00 in respect of past loss of income and R 4 800 000.00 in respect of the future loss of income, in his amended particulars of claim.

Rule 38(2) application

13. Application to present evidence of the Plaintiff and his expert witnesses, and any other relevant witness by way of affidavit in terms of Rule 38(2) of the Uniform Rules was sought and granted.

14. In Havenga vs Parker[2], confirmed by the Supreme Court of Appeal in Madibeng local Municipality vs Public Investment Corporation 2018(6) SA the ("SCA"), found that it is permissible to place expert evidence before the court by way of affidavit in terms of Rule 38(2), accordingly that application was granted.

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[2] 1993 (3) SA 724(T)

15. In the matter of **Baliso v First Rand Bank Limited t/a Wesbank**[3], the Constitutional Court outlined the law relating to the evaluation of evidence in cases of default judgment as follows:

> "In *terms of our civil procedure, a default judgment for a debt or liquidated demand is granted on an acceptance of the allegations as set out in the summons, without any evidence. Where the claim is not for a debt or liquidated demand, the court may, after hearing evidence, grant judgment. This typically provides evidence only on the amount of unliquidated damages. The reason for not hearing evidence on the other factual allegations made in the summons or particulars of claim is that, because the claim is not opposed, it may be accepted that those allegations are admitted or not disputed*. "

Expert's reports

16. The plaintiff appointed the following experts and the reports have been duly served in terms Rule 36 (9) (a) & (b): Dr PT Kumbirai (Orthopaedic Surgeon), Dr VM Close(Orthopaedic Surgeon), Ms A Wyrley-Birch (Occupational Therapist), Ms L Mashishi(Occupational Therapist), Ms N Sewpershad (Clinical Psychologist), Dr F Colin (Psychiatrist) (2018) (2023), Dr PJ Viljoen (ENT) (2023), Ms M du Plooy (Audiologist) (2023), D r T Bingle (Neurosurgeon) (2015) (2018), Ms M Grové (Industrial Psychologist) (2015) and GRS Actuarial Consulting (Actuary) and The defendant did not appoint any expert.

[3] [2016] ZACC 236 par 12

17. According to Dr Kumbirai (Orthopaedic Surgeon) report, it is concluded that Plaintiff had the following complaints: personality changes, now short-tempered, recurrent headaches, poor short-term memory, poor academic performance, pain left elbow – this is exacerbated by lifting of heavy weights, Reduction in her ability to perform activities of daily living e.g. personal hygiene, Poor self-esteem due to recurrent discharging sinus left elbow. Dr Kumbirai calculated a 61% whole person impairment and qualified the plaintiff's injuries as serious under the narrative test.

18. According to Dr VM Close (Orthopaedic Surgeon), it is concluded that: "in the accident under review, the documented injury was a fracture dislocation of left elbow, consisting of comminuted fractures of the humerus, proximal radius and ulna. At debridement it was noted that the elbow was not salvageable and subsequent an attempt was made to arthrodesis the elbow .the plate utilized is very short and the arthrodesis has failed, the fixation device has broken, the screws have pulled out and the joint space is completely destroyed .Clinically and radiologically I also suspect the presence of underlying low –grade sepsis .the fixation device needs to be removed and the area thoroughly debrided with possibility an irrigation system. Microbiological samples should be obtained and once the sepsis has been completely eradicated or excluded, a formal arthrodesis of elbow should then be performed by an orthopaedic surgeon, preferably with an interest in elbow surgery, noting that this is a complicated situation at this stage. The rest of the clinical examination revealed back pain for which no radiological abnormality was detected." Dr Close calculated a whole person

impairment of 25% and qualified the plaintiffs' injuries as serious under narrative test.

19. Dr T Bingle (Neurosurgeon) noted from the available hospital / clinical records that the patient was involved as a 17-year-old female in a motor vehicle accident when she fell from a moving bakkie and sustained several injuries consisting of an open humerus fracture, concussion to the head, left elbow injury/crush injury and an open wound to the right eyelid. On admission, the patient's GCS was recorded as 9/10 and she was restless, had secretions in the mouth, bleeding from the right ear, and periorbital oedema. The patient was diagnosed in hospital with a moderate head injury and skull X-rays were requested. Patient was administered Dormicum and Scoline and was intubated. She received oxygen and I V fluids. Her wounds were sutured and she was transferred to Polokwane for a C T scan. According to Dr Bingle the patient reported the loss of recall of the impact of the accident and lost consciousness. She reportedly only came to her senses again 3 months later in hospital indicative of significant dense post-traumatic amnesia. According to Dr Bingle, during consultation the patient complained of chronic and ongoing headaches with a detrimental effect on her quality of life and her employability as well as neurocognitive and neuropsychological sequelae. She also reported a significant loss of physical abilities in her left upper limb in relation to the orthopaedic injuries and sequelae. The clinical examination revealed a left hemiparesis and anosmia. Dr Bingle also noted that the patient sustained a significant concussive brain injury and underwent a tracheotomy and was reportedly in a coma for two

months on mechanical ventilation in the ICU. The patient further present with possible focal brain damage with a slight left hemiparesis.

20. Ms N Sewpershad (Clinical Psychologist) examined the patient and noted that the neuropsychological profile confirmed reduced behavioural control, with irritability, increased frustration, and impulsivity affecting the patient's neurocognitive performance. The plaintiff presented with widespread neurocognitive deficits, affecting multiple domains, including attention, memory, repetition and verbal learning, language skills and verbal reasoning, executive function, and motor performance.

21. Dr F Colin (Psychiatrist) diagnosed a major neurocognitive disorder associated with brain injury directly related to the motor vehicle accident. She further suffers from vague depressive symptomology which must be seen as part of the major neurocognitive disorder. Dr Colin noted that the major neurocognitive disorder due to the brain injury is an essentially untreatable condition and should the patient develop any complications, such as a depression or psychosis, then the patient should consult a psychiatrist for treatment in future. In a follow-up examination by Dr Colin in 2023 noted that since the initial assessment in 2018, the patient developed a complication of Bipolar Type II disorder which she shows rapid shifts of mood between hypomanic and depressive states. Patient should consult a Psychiatrist on a monthly basis until the condition is controlled with mood stabilization treatment. The treatment must be administered for the rest of her life, as this condition is irreversible and permanent. Dr Colin noted that the patient is unable to manage her own affairs and she is unable to instruct her legal team to any degree of certainty. She will require the appointment o f

a curator to look after her financial needs and assist in managing her legal case.

22. Dr P J Viljoen (Ear, Nose and Throat Specialist) indicated that the patient sustained anosmia (loss of smell) and dyspepsia (foul metallic taste sensation in mouth) as a result of the accident.

23. The Occupational Therapists, A Wyrley-Birch and L Mashishi concluded that the patient is likely to remain unemployed for the rest of her working career. At best the patient will be suitable for unskilled, routine and repetitive sedentary type occupations in a protective work environment. Her physical deficits, neuropsychological deficits and behavioral irregularities render her unemployable in the open labour market.

24. Ms Grove (industrial psychologist) postulated three scenario's as follows :

Pre-morbid potential

24.1 Uninjured Scenario1, She would have completed Grade 12 in December 2008 and remained unemployed for 3 years, She would have started working on 1 January 2012, earning R21'158 per year (median earnings unskilled workers + annual bonus of 75% of wages + 7,5% retirement contribution).Increasing in a straight line until reaching: R60'856 per year (median earnings semi-skilled workers + annual bonus of 75% of wages + 7,5% retirement contribution) in 5 years R155'041 per year (upper quartile earnings semi-skilled workers + annual bonus of 75% of wages + 7,5% retirement contribution) at age 45 and Thereafter, increasing with earnings inflation until retirement at age 65.

24.2 Uninjured scenario 2: She would have started working on 1 January 2012, earning R21'158 per year (median earnings unskilled workers + annual bonus of 75% of wages + 7,5% retirement contribution).Increasing in a straight line until reaching R215'000 per year (midpoint between the average and maximum earnings for skilled workers) at age 47½ and Thereafter, increasing with earnings inflation until retirement at age 65.

24.3 Uninjured scenario 3: She would have started working on 1 January 2012, earning R21'158 per year (median earnings unskilled workers + annual bonus of 75% of wages + 7, 5% retirement contribution; in July 2015 terms).Increasing in a straight line until reaching R330'035 per year (average of median packages Paterson B5/C1/C2; in April 2015 terms) at age 47½.and Thereafter, increasing with earnings inflation until retirement at age 65.

Post -Morbid potential

25. It is common cause between the experts that the plaintiff is unemployable in the open labour market due to the accident in question.

Postulated Scenarios

26. The question now is which scenario amongst the three mentioned above will be best suited for the plaintiff in the absent of the accident in question?

Analysis of the evidence

27. According to Ms M Grove (industrial psychologist) report dated 15 October 2015 paragraph10 of the report, it is concluded that:

" *In sofar as Ms K[...]'s pre-educational prospects are concerned, deference is given to the educational psychologist as to the level of education she would* *have been able to obtain had the accident not occurred, it is concluded that in the absence of the recommendation of the educational psychologist ,on the basis of the available information, taking into consideration the family background ,the educational and the occupational level of her parents, her reported school progress and her health at the time of the accident, the indicators suggest that Ms K[...] would most probably have completed a grade 12 level of education".*

28. Ms M Grove addendum report dated 13 May 2024 and on paragraph 5.1.1 reaffirms her views and opinions as expressed in the original report insofar as likely pre-morbid prospects and earnings.

29. In light of the above it is clear that, in the absence of the educational psychologist report and in the absence of any evidence to the contrary, the plaintiff's highest level of education pre-morbid would have been a grade 12 level of education, such a postulation is fair and reasonable taking into account the fact that the plaintiff was in grade in 11 at the time of the accident in question.

30. In my view it is probable that the plaintiff would have attained grade 12 level of education in the pre-morbid scenario, line with scenario 1 as postulated by the plaintiff's own industrial psychogist report.

Loss of earnings and/or earnings capacity

31. In respect of a claim for loss of earnings and/or earnings capacity the following trite legal principles are applicable :

31.1 In the matter of **Southern Insurance Association Ltd v Bailey NO**,[4] His Lordship Appellate Justice Nicholas stated as follows:

> " 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 random estimate of an amount which seems to him to be fair and reasonable. That is entirely a matter of guesswork, 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 guesswork to a greater or a lesser extent. But the court cannot for this reason adopt a non-possums attitude and make no award."

31.2 In **Walker v Road Accident Fund**,[5] Durban Division the court not only with approval referred to the aforementioned judgement of Nicholas AJ but also continued as follows:

[4] 1984 (1) SA 98 AD at 116H

[5] Case no. 17955/04 reported on the 28th of October 2009 in the High Court of South Africa Kwazulu Natal

"This principle applies with equal force to the manner in which a judge is called upon to deal with any aspect of the assessment of the loss of earnings – if it is relevant to the assessment, he/she must make the best of the material before the court, notwithstanding that the result may well be open to criticism."

31.3 In view of the inherent difficulties and uncertainties it has generally been accepted that it is preferable to make an assessment <u>based on actuarial calculations</u> rather than to take a blind plunge into the unknown.

31.4 In the matter of **De Kock v Road Accident Fund**,[6] the Court once again confirmed the approach to be taken with the calculation of loss stated in paragraph 22 as follows:

"[22] In approaching claims of this nature, the courts have always had open to it two possible approaches, namely:

22.1 Either that the Judge makes a round estimate of an amount which seems to him to be fair and reasonable. That process is entirely a matter of guesswork - a blind plunge into the unknown or

22.2 That the Judge tries 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.

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6 Case no. 2237/2013 reported on the 22nd of April 2015 in the High Court of South Africa (Gauteng Division, Pretoria)

23 It is manifest that either approach involves guesswork to a greater or lesser extent. However, the court cannot for this reason adopt a non possumus attitude and make no award.

24 The inherent difficulties and uncertainties therein manifest, it has generally been accepted that it is preferable to make an assessment based on actuarial calculations rather than to take a blind plunge into the unknown.

25 I prefer this approach.

26 Where the actuarial approach is adopted, the traditional method entails a four stage process as follows:

26.1 Calculate the present value of the future income which the plaintiff would have earned but for the injuries and the consequent disability.

26.2 Calculate the present value of the plaintiff's future income, if any, having regard to the disability.

26.3 Subtract the figure obtained under 26.2 from that obtained under 26.1.

26.4 Adjust the figure obtained as a result of this subtraction in the light of all relevant factors and contingencies.

27 Applying the above criteria, in calculating the plaintiffs estimated future income, the traditional method entails the following steps:

27.1 Ascertain the likely career path that the plaintiff would have followed had she not been injured. This requires assessment of elements such as academic and vocational qualification; promotion; chosen profession or job; likely rate of remuneration including fringe benefits; working lifespan; and retirement.

27.2 The raw data obtained in step 27.1 above is then fed to an actuary who calculates the present value of the plaintiff's future income stream by taking into account the net capitalisation rate which, in turn, takes into account the expected rate of investment return less the expected fixed rate of inflation; the relevant life tables i.e. the claimant's mortality index; and the applicable rate of income tax.

27.3 Ascertain the same facts as in 27.1 above relating to the plaintiff, now that she is injured and repeat the exercise in 27.2 above with regard to the plaintiff's future income stream in her injured position or condition.

28 Only after the above exercises had been performed will the final adjustment be made in order to provide for contingencies in respect of both income streams separately, after which the plaintiff's net loss can be determined.

29 Where the above method is followed, a lot of guesswork is removed from the process of quantification while at the same time, casing the cash flow of the Road Accident Fund ("the Fund"). The disadvantage of this method is that it undoubtedly adds immeasurably to the administrative workload of the Fund.

> Furthermore, it requires the co-operation and substantial agreement of both parties.”

32. This court in order to calculate the plaintiff’s loss of earnings and/or earnings capacity it is in particular necessary to have regard to the pre-and post-accident earnings and career postulations provided by the industrial psychologist.

Actuarial calculations

33. An actuarial calculation was obtained GRS Actuarial consulting dated 19 November 2025 based on the report of the plaintiff’s industrial psychologist report of Ms M Grove, dated 15 October 2015 and the addendum report dated 13 May 2024. The basis of the calculation of the loss of income appears in paragraph 2.2 for the income had the accident not occurred and in paragraph 2.3 for the income having regard to the accident.

34. The Actuary deducted 15% on the past loss of income and 20% on the future pre-morbid contingencies.

35. The actuary calculated three scenario’s as recommended by industrial psychogist report of Ms M grove, read together with the addendum report.

36. I have considered all three scenarios and I came to the conclusion that the most probable scenario which is best suited for the plaintiff is Scenario1, in the absence of the report by the educational psychologist. The only problem with scenario 1 is that it is indicated that plaintiff would have started working on 1 January 2008 earning median earnings of unskilled workers, there is no explanation why she would have started earning on the median quartile, instead of lower quartile of unskilled worker for that reason

coupled with other reasons below, the court deems it fit to increase a future pre-morbid contingencies from 20% to 25% on scenario 1. The cap does not apply to scenario 1.

37. Scenario's 2 and 3 would have been applicable in this case "if Ms K[...] was able to complete further training she would have continued as a skilled worker in the non-corporate/ semi–formal sector of the labour market reaching career ceiling earnings at the midpoint between the average and maximum earnings for skilled workers (i.e. about R 215 '000 per annum, 2015 values) at age 45 to 50 years.."

"Having completed further training Ms K[...] would have had a 25% chance to enter the formal corporate where she would have reached her career ceiling at a Paterson B5/C1/C2 level ,at age 45-50 years ,earnings on the stated annual guaranteed package ,median incomes scale.." retirement at age 65 years.

Submissions

38. During argument and on the heads of argument the plaintiff counsel argued for an amount of R 6 149 654.00 which amount represent scenario 3, *alternatively* an amount of R 5 410 253, which represent scenario 2, as actuarial calculated and having taken into account contingencies and Capp, but no reasons supported by evidence before the court advanced during argument and on the heads of argument as to why the court should disregard the recommended scenario 1, in the absence of the educational psychologist report.

39. Despite what is presented as the case of the plaintiff, it is important to note that this court is not a rubber stamp of amounts being presented by the

Plaintiff to support their case even though their matters is undefended by the Road Accident Fund.

40. The Court considers the total evidence presented to sustain the claims brought by the Plaintiff in any action. In matters of this nature where the defendant did not oppose the claim, the court is even extra-cautious.

41. In light of the above and in the absence of the educational psychologist report, I came to the conclusion that scenario 1 is fair and reasonable and Ms K[...] would most probably have completed grade 12 level of education and therefore the defendant will pay the plaintiff an amount of R 4 369 979. 25, as actuarial calculated, such an amount took into account 15% contingencies on the past loss of income and 25% contingencies on the future pre-morbid.

42. The amount in paragraph 41 above arrived at as follows:

	Uninjured	**Injured**
Past loss:	R 1 226 788.00	-
Minus 15% contingency deduction	- (R184 0818)	
	R 1 042 770.00	
Future loss:	R 4 436 279.00	-
Minus 25% contingency deduction	-(R 1 109 069, 75)	
	R 3 327 209, 25	
Net past loss:	**R 1 042 770.00**	
Net future loss:	**R 3 327 209, 25**	
Total loss	**R 4 369 979, 25**	

Contingencies

43. The actuarial calculations took into account contingencies of 15% on the Past loss of income and 20% on the future pre-morbid income. With regards to the plaintiff in this case and her specific capabilities, I am of the view that, a 25% future pre-morbid contingency deduction would cater for the risk that she might not have (even if the accident had not occurred) obtained the grade 12. This caters *inter a/ia* for the eventualities that her studies may have taken longer due pre-existing learning difficulties (i.e. *She repeated grade 11 once prior to the accident in question*), or that she would have taken longer to obtain employment, given the unemployment rate in this country, and that it is postulated that she will enter labour market as unskilled worker earning medium quartile instead of starting at a lower quartile as discussed above.

44. In terms of **Road Accident Fund v Sweatman**[7] **and in SIL and Others v RAF**[8]**,** the SCA held that contingencies must first be applied and then the statutory cap. The cap does not apply to this case in scenario 1.

45. In **Nel v RAF**[9] the court held that the court is to first deduct the merits apportionment and the apply the cap. However, in the present case, the cap makes no difference at all

Legal principles on contingencies

46. The legal principles applicable to the assessment of contingencies have been set out on numerous occasions in the past in various case law. It is by now accepted that in the assessment of these kinds of damages, which cannot be assessed with any amount of mathematical accuracy the court has a wide discretion. See for example, *A A Mutual Insurance Association Ltd v*

[7] 2015 (6) SA 186 (SCA)
[8] 2013 (3) SA 402 (GSJ)
[9] 2016 (2) SA 517 (GP) para 13

Maqula **<u>1978 (1) SA 805</u>** (A). It was more convenient to deal first more specifically with the plaintiff's claim for loss of earnings and earning capacity as well as the legal principles applicable thereto. The latter were also set out succinctly in *Southern Insurance Association Ltd v Bailey NO* **<u>1984 (1) SA 98</u>** (A) at 114. At 114C-D, Nicholas JA said:

> *" In a case where the Court has before it material on which an actuarial calculation can usefully be made, I do not think that the first approach offers any advantage over the second. On the contrary, while the result of an actuarial computation may be no more than an "informed guess", it has the advantage of an attempt to ascertain the value of what was lost on a logical basis; whereas the trial Judge's "gut feeling" (to use the words of appellant's counsel) as to what is fair and reasonable is nothing more than a blind guess. (cf Goldie v City Council of Johannesburg* ***<u>1948 (2) SA 913</u>*** *(W) at 920.)".*

47. In **Gwaxula v Road Accident Fund (09/41896) [2013] ZAGPJHC240**, the following was stated:

> " *It is a now well-settled that contingencies, whether negative or positive, are an important control mechanism to adjust the loss suffered to the circumstances of the individual case in order to achieve equity and fairness to the parties. There is no hard and fast rule regarding contingency allowance*."

48. **Koch, in *The Quantum Yearbook 2022* at 121 said**:

“ *General contingencies cover a wide range of considerations which may vary from case to case and may include: taxation, early death, saved travel costs, loss of employment, promotion prospects, divorce, etc. There are no fixed rules as regard general contingencies. The following guidelines can be helpful:”*

49. **Sliding scale**: ½ % per year to retire age, i.e., 25% for a child, 20% for a youth and 10% in middle age (*see Goodall v President Insurance 1978 1 SA 389 (W)*; for child claims see *Bailey v Southern Insurance 1984 1 SA 98 (A*)).

50. **Normal contingencies**: The RAF usually agrees to deductions of 5% for past loss and 15% for future loss, the so-called “*normal contingencies*”.

51. There are also unforeseen contingencies based on factors such as errors in the estimation in future earnings and life expectancy, loss of earnings due to unemployment and sickness, retirement at an earlier age and hazards of life, the list can never be exhaustive.

Conclusions

52. Having regard to the plaintiff’s injuries and Sequalae, the actuarial methodology employed by the plaintiff’s actuary.

53. The plaintiff should therefore be awarded the amount of R 4 369 979,25 as compensation for the past and the future loss of earnings, which represents a fair and balanced award, properly reflecting both the evidential record and the risks faced by the plaintiff.

Order

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

    1. The application in terms of Rule 38(2) is hereby granted.

2. The Defendant shall pay to the plaintiff the amount of R 4 369 979, 25 (FOUR MILLION, THREE HUNDRED AND SIXTY NINE THOUSAND RAND, NINE HUNDRED AND SEVENTY NINE RANDS, TWENTY FIVE CENTS) in respect of the claim for loss of earnings.

3. The capital amount in paragraph 2 above shall be protected by way of Trust already established by virtue of the court order dated 06 June 2024.

4. The amount above in paragraph 2 shall be paid to the plaintiff within 14 court days of the date of this Order.

5. In the event of the aforesaid amount not being paid timeously ,the defendant shall be liable for interest on the amount a tempore morae , calculated 14 (Fourteen) days after the date of this Order to date of payment ,as set out in section 17(3)(a) of the Road Accident Fund Act 56 of 1996.

6. The defendant shall pay the plaintiff's taxed or agreed party and party costs on the High Court scale, including the costs of and consequent to the employment of Counsel, Adv FHH Kherhahn and Adv APJ Bouwer (Curator adlitem) in respect of full day fee for 09 December 2025 on scale B and reasonable costs of expert reports delivered, within the discretion of the taxing master.

7. The amounts referred to above will be paid to the plaintiff's attorney Gary Stuart garden Inc, by direct transfer into their trust account, details of which are the following:

ACCOUNT HOLDER: GARY STUART GARDEN INC

BANK	:	FIRST NATIONAL BANK
TYPE OF ACCOUNT:		TRUST
ACCOUNT NUMBER:		6[...]
BRANCH	:	CENTURION
BRANCH CODE	:	2[...]
REFERENCE NUMBER:		GSG0247/NO/GS GARDEN

F MATIKA

Acting Judge of the

High Court of South Africa

Gauteng Division, Pretoria

For the plaintiff

Adv FHH KHERHAHN (072 761 6078)

Instructed by:

Gary Stuart Garden Inc

Ref: GSG0247/NO/GS GARDEN

Curator Ad Litem: Adv APJ Bouwer (072 381 5853)

For the Defendant: No Appearances

Date of hearing: 09 December 2025

Date of Judgement: 02 February 2026