



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not reportable

Case no:534/2021

In the matter between:

POGISO ISRAEL SEDIRO

PLAINTIFF

and

THE MINISTER OF POLICE

DEFENDANT

Coram: Wessels AJ

Judgment reserved: 11 March 2026

Delivered: This judgment was handed down electronically, circulated to the parties' representatives via email, uploaded to CaseLines, and released to SAFLII. The date and time for the handing down of the judgment are deemed to be 10h00 on 26 March 2026.

Summary: Unlawful arrest and detention – quantum of damages – assessment – mechanical approach of R15 000 per day rejected – factors to be considered enumerated in *Motladile v Minister of Police* 2023 (2) SACR 274 (SCA) – plaintiff detained for four nights in overcrowded cell with poor sanitation but no assault or denial of access to family or legal representation – aggravating features not proved – R80 000 awarded – interest from date of judgment – costs on Scale A – matter not complex – single witness – straightforward evidence – no requirement for extensive research or argument beyond what is ordinarily expected.

JUDGMENT

Wessels AJ

Introduction

[1] This is an action for damages arising from the arrest and detention of the Plaintiff by members of the South African Police Service (SAPS). The sole issue for determination by this Court is the quantum of damages to be awarded to the Plaintiff.

[2] The matter was initially enrolled for trial on the merits on 27 May 2024 before Reid J. On that date, an order was granted in the following terms:

- ‘1. THAT: The Defendant is and hereby liable on the merits 100%
2. THAT: The matter is postponed sine die for trial on quantum.
3. THAT: The Defendant to pay costs on a party and party scale.’

[3] The effect of this order is that the Defendant's liability on the merits has been determined in favour of the Plaintiff. The matter was thereafter postponed for the hearing of evidence on the issue of quantum.

[4] The quantum trial proceeded before me on 10 September 2025. At the conclusion of the evidence, the parties were directed to file written closing arguments. The Plaintiff was directed to file his heads of argument by 30 September 2025, and the Defendant by 3 October 2025.

[5] It is noted that, following the hearing on 10 September 2025, the matter was stood down to 6 October 2025 as an administrative date, with the parties directed to file their heads of argument by the specified dates. While the Plaintiff's heads of argument were evidently filed with the Office of the Registrar by the deadline of 30 September 2025, they were not brought to the attention of the Court at that time. The delay in finalising this matter was resolved only when my secretary contacted the Plaintiff's attorneys directly to obtain the documents. Upon the heads of argument being furnished to my secretary on 11 March 2026, I immediately engaged with the evaluation of the submissions and the writing of this judgment. The Court has had due regard to the submissions contained in both sets of heads of argument.

Plaintiff's case

[6] The plaintiff instituted this action against the defendant, claiming damages for unlawful arrest and detention. The plaintiff's claims are set out in his amended particulars of claim, filed on 15 July 2021.

[7] The plaintiff alleged that on or about 22 August 2019, at approximately 09:00, he was arrested without a warrant by Warrant Officer Moloto at 397

Matshelapata Section, Dinokana. He was subsequently detained at the Groot Marico Police Station. The plaintiff claimed that his arrest and detention were unlawful for several reasons, including the lack of reasonable suspicion that he had committed an offence and the breach of his right to be brought before a court within 48 hours of arrest. He was released from custody on 27 August 2019 at 12:00.

[8] In his particulars of claim, the plaintiff described the conditions of his detention as degrading and sub-human. He alleged overcrowding, a lack of proper sanitation, witnessing assaults by other inmates, a lack of fresh air and sunlight, an inoperable single ablution toilet, the heavy smell of human excrement, and the use and sharing of small blankets and sponges to sleep on.

[9] As a result of the unlawful arrest and detention, the plaintiff claimed general damages in the amount of R600 000 for impairment of dignity, loss of freedom, pain, suffering, and psychological trauma.

Defendant's case

[10] The defendant did not call any witnesses. The defence, as articulated in its heads of argument, was that the plaintiff had failed to prove the extent of his alleged damages. The defendant submitted that the plaintiff's claim was excessive and unsupported by the evidence.

[11] The defendant submitted that the plaintiff's oral evidence contained material contradictions and was not consistent with his pleaded case. In particular, the defendant pointed to the plaintiff's evidence that he slept on a bare floor, aggravating a hip injury, which was not pleaded, and for which no medical evidence was provided.

[12] The defendant argued that the plaintiff's detention was of short duration, being only four nights (from 22 August 2019 until 26 August 2019, when he was brought before a court). Relying on comparative case law, the Defendant submitted that a reasonable award would be between R80 000 and R200 000

The plaintiff's evidence

[13] The plaintiff was the sole witness to testify in support of his claim. He gave his evidence-in-chief, after which counsel for the defendant cross-examined him. A summary of his relevant testimony is as follows.

[14] At the time of the arrest, the plaintiff resided in Dinokana Village. He was unemployed but had previously run a business. He had completed Grade 12 and was the breadwinner for his girlfriend and two children. On 22 August 2019, between 08:00 and 09:00, he was cleaning his business premises when three police officers arrived. They told him to accompany them to the police station, stating that they would bring him back. He was not informed of the reason for his arrest at the time of his apprehension.

[15] At the police station, Warrant Officer Moloto informed him that he was being arrested for housebreaking. He was not handcuffed. He was placed in a holding cell. The cell was overcrowded, with 10 to 12 people inside. There was only one toilet and a cold-water shower. The toilet was leaking, and there was a foul smell. There were no blankets. He slept on the floor. He shared a sponge mattress with other detainees.

[16] The plaintiff testified that he had a pre-existing hip problem and was on medication. He informed the police of this, but they refused to collect his medication. He was not provided with his medication during his detention. He

stated that the cold floor aggravated his hip condition. He was released on 27 August 2019.

[17] The plaintiff testified that the arrest significantly impacted his life. His business failed, and he now views the police negatively. At the time of the trial, he was unemployed.

[18] During cross-examination, the plaintiff admitted that the police did not physically harm him, that he was not prevented from using the toilet, and that he shared a sponge mattress. However, he initially claimed he slept on the floor. He also acknowledged signing a Notice of Rights in accordance with the Constitution at the police station, and that he did not mention in his particulars of claim that he had a hip injury or issues with his medication.

[19] The defendant called no witnesses and led no evidence.

Legal principles

[20] The assessment of damages for unlawful arrest and detention is a matter within the court's discretion, guided by established principles. In *Minister of Safety and Security v Tyulu*¹ (327/2008) [2009] ZASCA 55 (27 May 2009), the Supreme Court of Appeal held as follows:

‘In the assessment of damages for unlawful arrest and detention, it is important to bear in mind that the primary purpose is not to enrich the aggrieved party but to offer him or her some much-needed solatium for his or her injured feelings. It is therefore crucial that serious attempts be made to ensure that the damages awarded are commensurate with the injury inflicted.’

¹ *Minister of Safety and Security v Tyulu* (327/2008) [2009] ZASCA 55; 2009 (5) SA 85 (SCA); 2009 (2) SACR 282 (SCA); [2009] 4 All SA 38 (SCA) (27 May 2009) para 26.

[21] The correct approach is to consider all the facts of the particular case. In *Minister of Safety and Security v Seymour*² the Supreme Court of Appeal (‘SCA’) stated that a trial court must have regard to all the facts of the particular case and to determine the quantum of damages on such facts.

[22] The Supreme Court of Appeal has repeatedly cautioned against a mechanical approach to assessing damages. In *Motladile v Minister of Police*³, the SCA stated:

‘The assessment of the amount of damages to award a plaintiff who was unlawfully arrested and detained, is not a mechanical exercise that has regard only to the number of days that a plaintiff had spent in detention. Significantly, the duration of the detention is not the only factor that a court must consider in determining what would be fair and reasonable compensation to award. Other factors that a court must take into account would include (a) the circumstances under which the arrest and detention occurred; (b) the presence or absence of improper motive or malice on the part of the defendant; (c) the conduct of the defendant; (d) the nature of the deprivation; (e) the status and standing of the plaintiff; (f) the presence or absence of an apology or satisfactory explanation of the events by the defendant; (g) awards in comparable cases; (h) publicity given to the arrest; (i) the simultaneous invasion of other personality and constitutional rights; and (j) the contributory action or inaction of the plaintiff.’

[23] In *Motladile*, the SCA specifically criticised the practice that had developed in the North West Division of applying a ‘one size fits all’ approach of R15,000 per day to damages claims for unlawful arrest and detention, holding that such a mechanical approach constitutes a misdirection. In that matter, the court awarded R200 000 for a detention of four days having regard to the aggravating circumstances: the plaintiff had volunteered to assist the

² *Minister of Safety and Security v Seymour* (295/05) [2006] ZASCA 71; [2007] 1 All SA 558 (SCA); 2006 (6) SA 320 (SCA) (30 May 2006).

³ *Motladile v Minister of Police* (414/2022) [2023] ZASCA 94; 2023 (2) SACR 274 (SCA) (12 June 2023) para 17.

police yet was arrested on Christmas Day, he was denied access to his family and legal representation, he was assaulted by fellow inmates, and there was evidence of improper motive on the part of the investigating officer.

[24] This Division has since applied the principles enunciated in *Motladile* in a manner that reflects the importance of tailoring each award to the specific facts of the case. In *Lenoke v Minister of Police* ⁴ Reddy J reaffirmed that the assessment of damages is not a mechanical exercise that regards only the number of days spent in detention, and awarded R30,000 for approximately three hours of detention coupled with assault. In *Mmadu v Minister of Police* ⁵ Hendricks JP awarded R60,000 for a detention of 28 hours, together with a separate award of R100,000 for a severe assault involving suffocation and loss of consciousness.

[25] In *Skhosana v Minister of Police* ⁶, the Full Court of the Gauteng Division awarded an all-inclusive amount of R600,000 for a 65-day detention coupled with assault.

[26] In determining the quantum, a court may have regard to previous awards in comparable cases, not as binding precedents, but as a guide.

Analysis

⁴ *Lenoke v Minister of Police* (CIV APP MG 27/2023) [2024] ZANWHC 277 (6 November 2024).

⁵ *Mmadu v Minister of Police* (3058/2019) [2024] ZANWHC 143 (21 June 2024).

⁶ *Skhosana v Minister of Police* (2024/A200, 30147/2013) [2025] ZAGPPHC 240 (10 March 2025).

[27] I now turn to consider the parties' evidence and submissions in light of the legal principles set out above.

[28] The dispute between the parties concerns the length of the plaintiff's detention. In his written heads of argument, the plaintiff's counsel claimed that the arrest took place on 25 April 2019 and that the detention lasted six days. However, this is incorrect. The amended particulars of claim state that the arrest occurred on 22 August 2019, and the plaintiff's oral testimony also confirmed that the arrest was on that date.

[29] The plaintiff was released from custody on 26 August 2019, after he appeared in court. He was arrested on 22 August 2019 and detained for four nights until his release. This period of detention is central to the assessment of damages.

Conditions of detention

[30] The plaintiff testified to various conditions that he alleges rendered his detention degrading. However, several of these allegations are not borne out by his pleaded case or are contradicted by his own admissions. The plaintiff alleged in his testimony that he slept on a bare floor, which aggravated an old hip injury. [29] Additionally, the supposed hip injury was not mentioned in the pleadings. It was only introduced during the plaintiff's oral testimony. No medical evidence was provided to verify this injury, and there was no evidence showing that the plaintiff had informed the police about his condition or that he was on medication before his detention.

[31] While the plaintiff's evidence regarding the general conditions of overcrowding, the presence of a single, leaking toilet, and a foul smell is

uncontested and is likely true, the more egregious allegations are not supported by the evidence. The plaintiff himself admitted that he was not prevented from using the toilet and that he did not suffer any physical harm at the hands of the police. The plaintiff's evidence, where it deviated from his pleaded case and where it was inconsistent under cross-examination, must be treated with caution. I am satisfied that the conditions of his detention, while not ideal, do not constitute the extreme degradation he sought to portray.

Assessment of quantum

[32] An amount of R600 000 is claimed in the amended particulars of claim. The Defendant submits that a reasonable award would be between R80 000 and R200 000. In *Motladile*, the SCA awarded R200 000 for a four-day detention. In that matter, the court considered several aggravating factors that are not present in the case before me. The plaintiff in *Motladile* had voluntarily offered to assist the police and was arrested on Christmas Day; he was denied access to his family and legal representation; he was assaulted by fellow inmates in the cells; he suffered humiliation and degradation; and there was evidence of improper motive and malice on the part of the investigating officer.

[33] The Plaintiff has not demonstrated the typical aggravating factors often cited in such cases. He was not assaulted, nor was he denied access to family or legal counsel. There is no evidence of misconduct or malice by the arresting officers. Although he signed a notice of rights after arriving at the police station, it indicated that his constitutional rights had been explained to him.

[34] In *Mmadu*, this Division awarded R60 000 for a detention of 28 hours and R100 000 for a severe assault involving suffocation and loss of consciousness. That case demonstrates that even short periods of detention can

attract significant awards where there are aggravating features, but also that assault is separately compensable where proved. In the present matter, no assault was proved.

[35] I have considered the Plaintiff's personal circumstances. He was a 39-year-old man, the breadwinner of his family. He was arrested in front of his girlfriend and neighbours. While these are factors that would have caused him embarrassment and distress, there is no evidence that he was physically maltreated or that his reputation in his community has been permanently damaged. The Plaintiff was detained for four nights in conditions that were overcrowded and had poor sanitation, but he was not subjected to the kind of degrading treatment that was present in *Motladile* or *Mmadu*.

[36] The order of 27 May 2024 determines that the arrest and detention were unlawful. The Plaintiff is entitled to a solatium, however I am not convinced that the aggravating factors claimed by the Plaintiff, such as a severe hip injury, sleeping on a bare floor, and a complete denial of medical treatment, have been established on a balance of probabilities. Taking into account the principles set out in *Motladile*, and having regard to the particular facts and circumstances of this case, I am of the view that an appropriate award is R80 000.

Interest

[37] The Plaintiff claims an order for the payment of interest on the amount awarded. Section 2A of the Prescribed Rate of Interest Act⁷ governs the award of interest on unliquidated debts. Section 2A(2)(a) provides that interest shall run from the date on which payment of the debt is claimed by the service on the debtor of a demand or summons, whichever date is earlier. However, the section

⁷ Prescribed Rate of Interest Act, 55 of 1975.

also provides that the court may, in its discretion, order that interest run from a different date if it is satisfied that special circumstances are justifying such a departure.

[38] In matters of this nature, it has become common practice to award interest from the date of judgment, particularly where the court determines the quantum of damages after the hearing of evidence.

[39] In the present matter, the summons was served on the Defendant on 4 June 2013. However, the quantum of plaintiff's damages has only now been determined by this Court after the hearing of evidence. The amount to which the plaintiff is entitled was not liquidated until the making of this order. In these circumstances, I am of the view that it is appropriate to award interest from the date of this judgment. This approach ensures that the plaintiff is compensated for the delay in payment without unfairly burdening the defendant with interest calculated over a period during which the precise amount of the debt was not established. I therefore order that interest shall run on the sum of R80,000.00 at the prescribed rate from the date of this judgment to the date of final payment.

Costs

[40] The Plaintiff prays for an order directing the defendant to pay the costs of the suit. The general rule is that costs follow the result, and the plaintiff has been successful, albeit not to the full extent of his claim. However, the scale on which costs should be awarded requires consideration.

[41] In *Motladile*, the SCA held⁸ that, although the total quantum awarded was below the High Court's jurisdiction, the plaintiff was justified in approaching the High Court because the matter concerned the unlawful deprivation of his liberty. The court accordingly awarded costs on the High Court scale.

[42] Scale B is reserved for matters of moderate complexity and importance. Scale A, by contrast, is the default scale for straightforward, uncomplicated matters.

[43] In the present matter, I must consider whether the complexity of the case and the amount involved justify an award on Scale B or the High Court scale generally. The matter was not complex. It involved a single witness, the Plaintiff, whose evidence was straightforward. The defendant called no witnesses. The only issue for determination was the quantum of damages, a matter that required the application of well-established principles to the facts of the case.

[44] The amount awarded, R80 000, is modest. While the matter concerns the unlawful deprivation of liberty, which is a fundamental right, the issues raised were neither novel nor complicated. There was no requirement for extensive research or argument beyond what is ordinarily expected in matters of this nature. The case did not involve multiple witnesses, conflicting expert evidence, or intricate legal questions. In these circumstances, I am of the view that an award of costs on Scale A is appropriate. Scale A is the standard scale for matters of ordinary complexity and is sufficient to compensate the plaintiff for the costs reasonably incurred in prosecuting his claim.

Order

⁸ *Op cit* fn 3, para 26.

[45] Resultantly, the following order is made:

1. The defendant is ordered to pay the Plaintiff the sum of R80 000 as damages for his unlawful arrest and detention.
2. The defendant is ordered to pay interest on the said sum at the prescribed rate from the date of this judgment to the date of final payment.
3. The defendant is ordered to pay the plaintiff's costs of suit on Scale A.

M WESSELS
ACTING JUDGE OF THE HIGH COURT
NORTH WEST DIVISION, MAHIKENG

Appearances

For plaintiff	: Adv T.P. Moloto
Instructed by	:GA Mooka Attorneys
	:Mmabatho
For defendant	:Adv Z. Williams
Instructed by	:The State Attorney
	:Mahikeng