

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: **110142/24**

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
<u>30 MARCH 2026</u>	
DATE	SIGNATURE

In the matter between:

THEMBELIHLE HOPE NYAMBENI

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on Caselines. The date for hand-down is deemed to be **30 March 2026**.

JUDGMENT

N.SOVITI-ZWEDALAAJ

INTRODUCTION

[1] The matter before court on default basis as the defendant failed to enter an appearance of Intention to Defend. It is before court for both merits and quantum adjudication. Plaintiff is claiming for damages she suffered when she involved in a motor vehicle accident on the 9 April 2021 from the defendant. She was a passenger at the time of the accident, and she sustained injuries from the accident in discussion.

MERITS

[2] She was a passenger and the defendant is 100% liable to pay for plaintiff's proven damages.

QUANTUM

[3]

1. General damages postponed sine die as there is no election from the defendant.
2. Loss of earnings to be delta with hereunder.

LOSS OF EARNINGS

INJURIES SUSTAINED

[4] Soft tissue head injury, abrasions, GCS 15/15. She was treated and discharged the very same day of the accident, 9th April 2021. She went back to hospital on the 19 August 2022 with issue of bleeding from her ears.

EXPERTS REPORTS PERUSAL

- [5] Post-accident the plaintiff is reported to be suffering from partial hearing loss. However, the plaintiff denies this problem. As per the report of the ENT reported herself that pre-accident of she has generally been suffering from Ear Otagia and that her life has been the life with the ear otalgia. When she visited hospital on the 19 August 2022 a year four months post-accident, her health deteriorated in that she suffers from meningitis. The meningitis affects her academic progress in that pre-accident she could have probably achieve Grade 12 with a Degree entry. And post-accident she has Grade 11 level of education.

ANALYSIS OF EVIDENCE BEFORE COURT

- [6] The principle that plaintiff should be taken as he/she was pre-accident is of great importance as it gives clue of plaintiff's life/health in general. In this case the plaintiff was suffering from Ear Otagia in that she had a pre-existing condition. Then the accident happened, she was treated same day was discharged, 1 year four months later she came back to hospital with ear bleeding. The plaintiff's final diagnosis she is suffering from Meningitis. The plaintiff's pre-accident condition is a condition that can complicate leaving the patient suffering from meningitis. The plaintiff's pre-accident condition cannot be ignored, and it is acceptable to say the accident has exacerbated a pre-existing condition. In that both the pre-existing and the accident have contribution to the unfortunate situation the plaintiff finds herself in health-wise.
- [7] The meningitis has negatively affected the plaintiff's future career and job opportunities. Having read all the reports my *prima facie* view is that her pre-morbid and post-morbid are the same.
- [8] I have used the second calculations from the plaintiff dated 12 February 2026:

Scenario 2 Diploma

	Uninjured Income	Injured Income
Future	R14 377 313-25%	R14 377 313-40%
	=R10 782 985	=R8 626 388

R10 782 985-R8 626 388= R2 156 597

Loss of Earnings : R2 156 597



**N SOVITI-ZWEDALA
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

APPEARANCES:

For the Applicant:	Adv R M Mthembu – (076 742 2532)
Instructed by:	Biyela and associates Tel: 012 386 0485
For the Defendant:	No appearance
Instructed by:	State Attorneys
Date of the hearing:	09 December 2025
Date of judgment:	30 March 2026