

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

Not Reportable

Case no: 2694/2023

In the matter between:

MALESHOANE ALETTA MOFOKENG

PLAINTIFF

and

THE MINISTER OF POLICE

DEFENDANT

Neutral citation: *Maleshoane Aletta Mofokeng v The Minister of Police* (2694/2023)
[2026] ZAFSHC 234 (10 April 2026)

Coram: MOLITSOANE J

Heard: 13 February 2026

Delivered: 10 April 2026

Summary: Quantum – delictual damages – unlawful assault – police shooting – gunshot wound – general damages – future loss of earnings and earning capacity – future medical and hospital expenses – postponement – unopposed proceedings.

ORDER

1 The application for postponement is dismissed with costs, which costs include the costs of counsel on scale A.

2 The defendant is ordered to pay the plaintiff the amount of R1 269 309.00 (One Million Two Hundred and Sixty-Nine Thousand and Three Hundred and Nine Rand), which is made up as follows:

- | | | |
|-----|-------------------------|-------------|
| (a) | General damages | R700 000.00 |
| (b) | Future loss of income | R30 856.00 |
| (c) | Future medical expenses | R538 453.00 |

3 Payment to the plaintiff must be effected within 60 days from date of this order, falling which the capital amounts will accrue interest at 10.25% per annum, from date of judgment to date of final payment.

4 Payment should be effected into the following account:

Account name:	Loubser van Wyk Inc
Account type:	Trust Account
Bank:	First National Bank Hatfield
Account number:	6[...]
Branch code:	252 145
Reference:	W2744

5 The defendant to pay the plaintiff's costs, such to include cost of counsel on scale C, as well as the qualifying fees of the following experts:

- (a) Ms Christa Du Toit (Industrial Psychologist);
- (b) Ms Karen Van Der Vyfer (Occupational Therapist);
- (c) Dr J F Ziervogel (Orthopaedic Surgeon); and
- (d) Ms Michelle Barnard (Actuary).

JUDGMENT

Molitssoane J

[1] This is a claim for delictual damages for personal injury arising out of being shot by the police. In the amended particulars of claim plaintiff claimed an amount of R1 449 625 for past and future medical and hospital expenses, past and future loss of earnings and general damages. On 3 September 2024, the defendant accepted liability pertaining to the plaintiff's claim for unlawful assault. This Court found the defendant to be liable for 100 percent of the plaintiffs agreed or proven damages. The case is before

me for the determination of general damages, future loss of earnings and earning capacity, future medical expenses. The plaintiff does not persist with the claims for past loss of earnings as well as past medical and hospital expenses.

[2] On the day of the hearing of this action on damages, the defendant sought a postponement of the trial. The application for a postponement was opposed. I refused the application and ordered the trial to proceed. Counsel then appearing for the defendant, sought permission to withdraw from the proceedings as she informed the court that she only had instructions to apply for the postponement. I excused her from the proceedings and the matter proceeded without the defendant being legally represented.

[3] The plaintiff testified in her own case and did not call any further eyewitnesses. After the testimony of the plaintiff, counsel moved for an application in terms of Uniform rule 38(2) together with an application in terms of s 3(1)(c) of the Law of Evidence Amendment Act 45 of 1988, for the report of Dr Ziervogel, an orthopaedic surgeon who has since passed on, to be accepted into evidence. Both these applications were granted.

[4] The plaintiff testified that on 7 March 2023, she was a passenger in a motor vehicle driven by her employer. Along the way they met a group of police officers in the uniform. The police officers raised their firearms in the direction of the motor vehicle in which they were traveling. Thereafter the police fired at the motor vehicle in which the plaintiff was. Her employer sped away towards the direction of the police station. The plaintiff further testified that she sustained a gunshot wound of the upper leg. The plaintiff also testified about the effect the shooting had on her life. She testified that she still suffers severe pain and anguish because of the shooting and the injuries she sustained. She further testified that she was hospitalised and underwent two operations. At the time of the incident, she was employed as a domestic worker, cleaning the house, doing washing and doing normal household chores in the house of her employer.

[5] It is undisputed that the plaintiff in this case was shot by members of the police. As to the issue of liability the court has already found the defendant to be liable for the

acts of the employees of the defendant. It is also undisputed that the plaintiff suffered an injury on her upper leg, the thigh. The undisputed evidence is that she has suffered severe and extensive scarring on the upper leg. The orthopaedic surgeon, the late Dr Ziervogel, compiled a report in which he set out the injuries the plaintiffs suffered, the sequelae of caused by the injuries as well as the treatment she had to endure and would in future also need to endure. He concluded that the impairment and physical disability of the plaintiff was a total of 6%WPI.

[6] Ms Du Toit, an industrial psychologist also compiled a report. In her report, she indicated that the plaintiff informed her that the plaintiff must take breaks when performing jobs and tasks. She noted that the plaintiff has since found her tasks to be difficult to perform following the accident. She indicated in her report that the plaintiff informed her that she also now has memory problems. I, however, find it difficult to accept this in the absence of any expert evidence to that effect. The plaintiff sustained an injury of a lower limb and there was no evidence to the effect that she also sustained injuries to her head which could have let to memory problems. However, it appears that the plaintiff has flashbacks about this incident and at times finds it difficult to sleep. Ms Du Toit confirmed that at that time of the incident the plaintiff was employed as a domestic worker and earned an amount of R3 500 per month. It is undisputed that her employer continued to pay her whilst she was hospitalised and had not gone back to work. She has consequently, not suffered any past loss of income. Ms Du To also confirmed that the plaintiff had suffered loss of any capacity due to the injury she sustained.

[7] On the other hand, an occupational therapist Mrs Van der Vyver, indicates in her report that the plaintiff continues to suffer a loss of optimal job efficiency since this incident. She attributes this to physical and probably psychological as well as psychosocial factors associated with a gunshot injury to the left lower extremity. An actuarial report was also compiled and its contents are undisputed. The report indicates that the general contingency deductions were ignored when an assessment of her loss was income was calculated. I find that this is a fair assessment of the loss and I accept same as will become apparent in my order below.

[8] The principles regarding the assessment of damages relate to what would constitute fair compensation in a particular matter, considering the circumstances of the case and the amounts previously awarded in comparable cases; the decrease in the value of money since those previous cases should also be considered. However, the assessment of general damages remains in the discretion of the trial court.¹ Having regard to the previous awards, the injury of the plaintiff the sequelae thereof, I am of the view that an amount of R700 000 would be a fair and reasonable amount to compensate her as general damages. I also agree with the amounts of R30 586.00 and R538 453.00 as proposed in the expert reports being for future loss of income and future medical expenses.

[9] On the issue of costs, there is no reason why the costs should not follow the cause. I accordingly make the following order:

1 The application for postponement is dismissed with costs, which costs include the costs of counsel on scale A.

2 The defendant is ordered to pay the plaintiff the amount of R1 269 309.00 (One Million Two Hundred and Sixty-Nine Thousand and Three Hundred and Nine Rand), which is made up as follows:

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¹ *Road Accident Fund v Marunga* [2003] ZASCA 19; [2003] 2 All SA 148 (SCA); 2003 (5) SA 164 (SCA) para 23. See also *Fourie and Another v Road Accident Fund* 2014 (2) SA 88 (GNP) para 62.

5 The defendant to pay the plaintiff's costs, such to include cost of counsel on scale C, as well as the qualifying fees of the following experts:

- (a) Ms Christa Du Toit (Industrial Psychologist);
- (b) Ms Karen Van Der Vyfer (Occupational Therapist);
- (c) Dr J F Ziervogel (Orthopaedic Surgeon); and
- (d) Ms Michelle Barnard (Actuary).

P E MOLITSOANE
JUDGE OF THE HIGH COURT

Appearances

For the plaintiff:	C Zietsman
Instructed by:	Jacobs Fourie Attorneys, Bloemfontein
For the defendant:	No appearance.