

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2021-54035

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

DATE

SIGNATURE

In the matter between:-

N[...] L[...]

Plaintiff

and

THE ROAD ACCIDENT FUND

Defendant

JUDGMENT

Mfenyana J:

Introduction

[1] The plaintiff instituted proceedings against the defendant for damages arising from bodily injuries he sustained in a motor vehicle accident which occurred on 13 May 2017. At the time of the accident, the plaintiff was a pedestrian. He was 17 years old. He sustained a head injury: a haematoma to the left of his forehead, a left frontoparietal subdural haematoma, a left haemorrhagic

contusion, a right inferior frontal haematoma, a grade II splenic laceration, and a small amount of hemoperitoneum. He also has psychological sequelae from his accident-related injuries and post-traumatic epilepsy from the brain injury.

- [2] The defendant opposes the claim.
- [3] Both parties have enlisted the services of experts and filed expert reports. For the plaintiff, a neurosurgeon, a specialist physician, a specialist neurologist, a neuropsychologist, an audiologist and speech therapist, a plastic surgeon, an occupational therapist, an educational psychologist and an industrial psychologist filed reports. On behalf of the defendant, an occupational therapist, an educational psychologist and an industrial psychologist prepared reports.
- [4] The occupational therapists and the industrial psychologists prepared joint minutes in which they agree on all aspects of the plaintiff's claim.
- [5] The merits of the matter were previously settled on an 80/20 basis in favour of the plaintiff. General damages were similarly settled on the same date, with loss of earnings postponed *sine die*.
- [6] The parties' mediation attempts were unsuccessful. The matter proceeded only in respect of loss of earnings, the plaintiff's earning potential pre- and post-morbid, the contingencies to be applied, and the issuing of an undertaking as envisaged in section 17(4) of the Road Accident Fund Act (RAF Act).¹
- [7] At the hearing of the matter, the plaintiff's counsel moved an application in terms of rule 38(2) for the evidence of some expert witnesses to be given on affidavit. These experts are:

¹ Act 56 of 1996.

- 7.1. Dr Mutyaba, a neurosurgeon,
- 7.2. Mr Omond-Brown, a clinical neuropsychologist,
- 7.3. Dr Naidoo, a psychiatrist,
- 7.4. Prof Chait, a plastic surgeon,
- 7.5. Dr Botha, a specialist physician,
- 7.6. Ms Janse van Rensburg, an audiologist,

[8] Having satisfied myself with the merits of the substantive application brought in that regard, I granted the order.

[9] The plaintiff called the following witnesses to testify:

- 9.1. Dr Seabi, an educational psychologist,
- 9.2. Dr Huth, a specialist neurologist,
- 9.3. Ms Stevens, an industrial psychologist
- 9.4. The plaintiff also testified on his own behalf.

Plaintiff's evidence

[10] The plaintiff (Mr N[...]) testified that he does not remember the accident. He further testified that he is currently doing a learnership for people with disabilities, with iLearn. He further stated that he was enrolled on the specific learnership programme because he has epilepsy. He receives a stipend of R6000 per month.

[11] He told the court that a lot of things have changed because of the accident; he has memory loss, his body sometimes shakes, he has headaches approximately twice a week, and seizures sometimes up to four times a week; he sometimes wets himself. He further testified that his last episode was the previous Sunday. He further stated that the seizures do not last very long, but the effects last for approximately 2 hours, even though he is taking his medication.

- [12] When asked by the court if he knows what triggers the seizures, Mr N[...] testified that it is difficult to pinpoint, as he would sometimes have a really good day, but still have a seizure or have a bad day but not have a seizure. He added that he sometimes has a seizure in the mornings, and on those days, he is not able to go to iLearn. He feels that he will not cope.
- [13] During cross-examination, Mr N[...] testified that he aspired to study law. When asked if he did not want to be an IT specialist, he conceded, stating further that he did not pay much attention to his aspirations of studying law. When asked if he was coping with the workload, he testified that he was just managing as he completes the tasks he is given.
- [14] He further stated that he is not in the same field he studied for, as his learnership is in project management at NQF 5 level. He stated that he chose to do the learnership as he was unemployed and did not want to simply stay at home doing nothing. He added that the learnership might be paving the way to a career IT.
- [15] Ms Tivana, representing the defendant, asked Mr N[...] why he was not submitting any job applications. He conceded that he was not actively applying for jobs because he wanted to first complete his learnership. When questioned about his tendency not to finish what he starts, he explained that he prefers to study in a sequential manner, starting with the diploma and then moving on to the degree.

Other relevant information

- [16] In the further information gleaned from the various expert reports, it is recorded that, according to the plaintiff, his mother did not experience any antenatal or perinatal complications. He was a full-term baby. His mother also

added that the plaintiff achieved his developmental milestones within normal limits.

- [17] The plaintiff reported that his mother completed Grade 12 and works as a health worker, while his stepfather is an upholsterer. He has three half-siblings: two are 16 and 15 years old, in Grades 11 and 10, and one has completed Grade 10 and is studying for a safety management certificate. He does not have a relationship with his biological father.
- [18] He described himself as a happy person who made friends easily and was active and outgoing prior to the accident. He played soccer and hoped to play professionally someday. Post-accident, although he is still a well-behaved young man, he is no longer outgoing and prefers to be by himself, as crowded places irritate him. He gets irritated easily. He does not participate in any sport.
- [19] His primary schooling was uneventful and progressed without any hiccups. After graduating from nursery school, he went to Dikishe Primary School, where he completed Grade 5. Thereafter, he went to Kliptown Primary School for Grades 6 and 7. He thereafter commenced his high school at Missourilaan Secondary School. He failed Grade 10 in 2017 and repeated it successfully the following year. At the time of the accident, he was repeating Grade 10. After the accident, he progressed to Grade 11 and 12 at the same school. He obtained an endorsement for admission to a bachelor's degree in 2019.
- [20] In 2020, he took a gap year. In 2021, he enrolled for an IT Diploma, which he completed in 2023. In 2024, he tried to convert his diploma into a degree but found the demands of the degree challenging and ultimately dropped out of the program. In 2025, he enrolled in a learnership in project management, specifically designed for disabled people.

Evidence of the specialist neurologist

- [21] Dr Huth testified that Mr N[...] suffered a severe head injury, which resulted in post-traumatic epilepsy. He further testified that medication or dosage may sometimes need to be adjusted. He, however, added that only 65% of epileptics achieve control of between 50% and 80% on a multi-drug regimen; there are no guarantees. He stated that the medication has serious side effects, but in recent years, newer drugs with fewer side effects have emerged.
- [22] Dr Huth further stated that epilepsy is a complete change of lifestyle, as a patient might present with intolerance to certain foods and may also develop symptoms from using certain medications. In the workplace, he stated, it would require a sympathetic employer, as epilepsy sufferers are stigmatised and categorised as disabled, as is evident from the plaintiff's case, who was enrolled for a learnership for disabled people because of the epilepsy.
- [23] During cross-examination, Dr Huth was asked about the difference between a head injury and a brain injury. He testified that the plaintiff suffered a severe brain injury with intracranial bleeding. He reiterated that the plaintiff may have shown symptoms or intolerance to certain foods, which is not unusual for epileptics.
- [24] Regarding the nexus between the plaintiff's illness and the accident, he stated that even though the epilepsy developed four years after the accident, the plaintiff has no prior history of seizures, and his conclusion is therefore that it is a result of the accident.

Evidence of the educational psychologists

- [25] In his report, Dr Seabi states that according to the information he received, the plaintiff sustained an intracranial injury. His Glasgow Coma Scale (GCS) was 7/15, and he was bleeding from his mouth at the time of the accident. He had no cervical or chest abnormalities. Three days later, on 16 May 2017, his GCS

was recorded as 14/15 and rose to 15/15 on 17 May 2017. He remained in the hospital for approximately one week.

- [26] Dr Seabi reported that since assessing the plaintiff in 2022, there has been a significant change in his psychological functioning, behaviour and academic performance. He reported that the plaintiff is experiencing generalised anxiety, depressive symptomology and features of post-traumatic stress disorder. He also experiences frequent headaches, especially after an epileptic seizure and continues to have episodes of epilepsy despite being on Epilim.
- [27] Dr Seabi further reported that the plaintiff scored low marks in his cognitive functioning test and presented with a low average IQ, with poor mental speed, so was his ability to use logical thinking and abstract concepts. He obtained a high average mark in the information subtest, which measures his ability to acquire, retain and retrieve information. Notably, his working memory and short-term auditory memory are in the lower average range.
- [28] He added that the plaintiff does not feel good enough, has moderate depression and shows symptoms of severe post-traumatic depression.
- [29] He further stated that the available information shows that the plaintiff had performed well in school, despite failing Grade 10 due to playfulness and peer pressure. Post- accident, his performance has deteriorated, and he finds studying to require a lot of effort. He experiences difficulties concentrating and recalling what he had studied. He is forgetful and misplaces items easily. He has been on Epilim 500 since September 2021 to manage his epileptic seizures, which occur once a month.
- [30] Dr Seabi opined that Mr N[...]’s scholastic problems, which include mathematical difficulties (presented in oral and written forms), delayed reading and poorly developed visual memory of words, “suggest that he will probably experience trouble coping with the demands of higher education. He will probably give up when he perceives tasks to be difficult, as he did in the

assessment. These difficulties will inadvertently affect his academic self-esteem. A body of empirical evidence indicates that students who experience repeated scholastic difficulties end up dropping out of their studies due to a complex of psychological constructs around demotivation, peer pressure, efforts to protect one's self-confidence, loss of interest, low self-esteem, and learned helplessness.”

[31] Given his family background and available information, Dr Seabi surmises that Mr N[...]’s pre-accident intellectual ability can be estimated at average to high. He postulates that he would likely have progressed to an Honours degree (NQF8). Post-morbid, he experiences seizures, has a disfiguring scar on his forehead and lip, a weak jaw and is unable to carry heavy objects.

[32] He also presents with emotional difficulties, which include post-traumatic stress anxiety in the form of hypervigilance and hyperarousal; he gets easily startled, has unwanted upsetting memories of the accident, which evoke physical reactions such as rapid breathing. He presents with symptoms of major depressive disorder, specifically, irritability, sadness, anger outbursts, slowed thinking, trouble concentrating on his work, loss of interest in activities, and withdrawn behaviour. He also presents with low levels of motivation. For the psychological sequelae, Dr Seabi deferred to the clinical psychologist.

[33] In his addendum report, Dr Seabi noted that the plaintiff completed his diploma, although with great difficulty. In 2024, he attempted to convert his diploma to a degree but dropped out as he could not cope with the study demands and was often sick. He passed only three of her five semester modules. He added that the plaintiff reported that his health is gradually deteriorating as he now has seizures twice a week. He takes Epilim, which causes his hands and legs to shake. He experiences headaches and usually wakes up feeling tired after a seizure.

[34] During his testimony, Dr Seabi stated that it was a wise decision for the plaintiff to enrol in a diploma program, as he would likely have struggled to

meet the demands of a degree. He noted that while the plaintiff is capable of functioning cognitively, he does so at a diminished level and with significant difficulty, making it unsustainable in the long run.

[35] Dr Prag, the defendant's educational psychologist, opines that He concluded that "there is a clear and direct causal link between the motor vehicle accident and the deterioration in his functioning as well as his quality of life". Dr Prag notes further that "a brain injury of this nature is expected to result in long-term neuropsychological difficulties. He adds that the plaintiff's current performance is not in keeping with his pre-morbid functioning and agrees with Dr Seabi that he would have been able to complete an Honours Degree had the accident not occurred. He further agreed that post-morbid, he would not go further than an NQF 6 qualification.

[36] Dr Prag noted that from information received from the plaintiff's mother, the plaintiff's maternal uncle also suffers from epilepsy following a beating on the head with a stick. He also noted that there was no collateral information regarding the plaintiff's pre- accident school performance, only information received from the plaintiff and his mother. Dr Prag notes that it should be noted that the plaintiff would have entered the labour market a year later, as he had failed Grade 10.

[37] Dr Prag referred to specific literature, which indicates that there is evidence that some individuals with epilepsy slow down or regress in their mental development. He opined that the plaintiff's cognitive functioning has decreased, probably due to the frequent seizures he experiences. He, however, deferred to the neuropsychologist and the neurosurgeon in this regard.

[38] He noted that the plaintiff is not functioning as he did before the accident. He would have been able to obtain an Honours Degree. Post-morbid, he suffers from lapses of concentration, poor working memory, a depressed cognitive

profile and distractibility, which are additional barriers to his studies. He will thus remain at NQF 6.

Joint minute of the industrial psychologists

- [39] Ms Stevens, the plaintiff's industrial psychologist and Ms Magethi, the industrial psychologist appointed by the defendant, note the agreement between the educational psychologists that the plaintiff would have progressed to NQF 8, 'but for' the accident. They agreed that pre- accident, the plaintiff would have followed a similar educational and career path and obtained an NQF 8 qualification by the end of 2025 and would have secured employment within 6 to 12 months of completing his studies. He would have earned a basic salary graded at the Paterson B5 median level. With further training, he would have progressed and reached his career ceiling between the ages of 45 and 50. Thereafter, he would have earned inflationary increases until retirement at the age of 65.
- [40] Taking the accident into account, the industrial psychologists accept that the educational psychologists' agreement that the plaintiff will, in all likelihood, progress only up to NQF 6 obtained over a period of four years. In this regard, it is worth noting that the plaintiff obtained his NQF 6 qualification in 2023, over a period of three years.
- [41] As to his earnings, it was noted that the plaintiff was employed as a general worker earning R150.00 per day for five days. They further agree that the plaintiff incurred no past loss of earnings, as he was a scholar when the accident occurred. The industrial psychologists agree that due to the plaintiff's cognitive deficits, as pointed out by the relevant experts, his pre-morbid scenario will not prevail.
- [42] Within 6 to 12 months of obtaining his diploma, he would enter the labour market and earn a basic salary at the Paterson B1 median, whereafter he would receive inflationary increases until retirement at the age of 65. The industrial psychologists, however, opine that the plaintiff may not even be able

to earn at the suggested level or sustain the earnings for an extended period of up to 41 years until he reaches the postulated retirement age of 65. They reference the

- [43] The industrial psychologists referenced the occupational therapists' postulations that, should the epilepsy remain uncontrolled with further cognitive decline, the plaintiff will be limited to sheltered employment, which will be difficult to come by. To cater for this eventuality, they propose higher contingencies, noting further that this falls within the discretion of the court.

Joint minute between the occupational therapists

- [44] Mses Latakomo/ Phasha and Cummings agree that the plaintiff's occupational selection has been further reduced by the post-traumatic epilepsy. They further agree that his cognitive deficits may be exacerbated by his uncontrolled epilepsy, and according to Ms Cummings, possibly the anticonvulsant medication he is currently taking. Consequently, they agree that he is currently limited to simple, structured routine tasks and working under supervision, within a sedentary or light physical occupation. He cannot be considered an equal competitor in the open labour market.

Discussion

- [45] Having perused the reports of both educational psychologists, who are in agreement on the pre- and post-morbid postulations,
- a. that there is a causal link between the accident and deteriorating functioning and quality of life;
 - b. that the brain injury suffered by the plaintiff has long-term effects on his neuropsychological functioning;
 - c. that his post-morbid performance is not in keeping with his pre-morbid functioning, and that his cognitive functioning has decreased;
 - d. that the plaintiff would have completed an Honours degree (NQF8);
 - e. that post-morbid, the plaintiff will likely not achieve beyond NQF6,

it is indisputable that the plaintiff would not be able to compete in the open labour market.

[46] Accordingly, the industrial psychologists used the agreements between the educational psychologists as a basis for their joint minutes. The joint minute of the industrial psychologists is, in turn, the basis for the actuarial calculation, which has been computed to factor in the cap. However, I do not agree with the contingencies applied.

[47] In today's circumstances, where unemployment is high, employers are spoilt for choice. They would naturally prefer employees who would hit the ground running and who do not need to be accommodated. All the experts agree that the plaintiff falls into this category. Resultantly, I do not agree with the defendant that the plaintiff has only suffered a capacity loss. This would require that the plaintiff should endure employment (if he does secure it).

[48] It was argued on behalf of the defendant that the cause of Mr N[...]’s epileptic seizures is unknown and could have developed pre- or post -accident. This directly contradicts the conclusions reached by the experts, including Dr Prag, the defendant’s own expert, which is further reinforced by the opinion of the specialist neuropsychologist. The defendant’s sentiments thus seek to disavow the opinions expressed by the experts, including the defendant’s own experts. This cannot be. It is settled law that parties are bound by the opinions expressed in the joint minutes.²

[49] It is further the defendant’s contention that with the possibility of controlled episodes as described by Dr Huth, the issue of the plaintiff only qualifying for sheltered employment should not arise. Dr Huth stated in no uncertain terms that there is no guarantee that with a change in the plaintiff’s medication or the dosage, the issue would be completely eradicated. When that will be, is also

² *HAL obo MML v MEC for Health, Free State 2022 (3) SA 571 (SCA).*

unknown, and for obvious reasons, the defendant cannot proffer any suggestion on this regard.

[50] Regarding the sequelae of the plaintiff's injuries, a GCS of 7/15 is no mean feat. The fact that the plaintiff started experiencing seizures four years after the accident is, in my view, an indication of the sequelae and possibly things to come. This can be addressed by adjusting the contingencies allowed. That there was a causal link between the accident and the epilepsy suffered by the plaintiff was agreed to by all the relevant experts. Any misgivings the defendant may have expressed during cross-examination are of no moment.

[51] It is so that contingencies fall within the discretion of the court, exercised judiciously. In this regard, I align myself with the sentiments expressed by Motha J in *Coertse v Road Accident Fund*³, that "as much as the court is not slavishly tied to actuarial calculations, it is similarly not bound by the so-called normal contingency allowances... ."

[52] I am of the view that the appropriate contingencies to be applied in the circumstances would be 35% 'but for' the accident. I would leave the contingencies 'having regard to' the accident at 5%. Having regard to this, I requested the parties to provide me with a new calculation, taking into account these contingencies in view of the cap.

[53] In *Goodall v President Insurance Co*⁴, the court held that:

"In the assessment of a proper allowance for contingencies, arbitrary considerations must inevitably play a part, for the art of foretelling the future, so confidently practised by ancient prophets, soothsayers and by modern authors of a certain type of almanack, is not numbered among the qualifications of a judicial officer."⁴

³ Case No. 85818/2016, ZAGPPHC (Unreported - 2 December 2024).

⁴ 1978 (1) 389 (W).

⁴ At 392H.

[54] The purpose of an award for loss of earnings is to place the claimant in the position they would have been in had the accident not happened.

Protection of funds

[55] In view of the injuries sustained by the plaintiff, which impact his cognitive functioning, it would be prudent that the funds to be awarded to the plaintiff should be protected. I have considered several options and have concluded that a Trust should be formed within a period of 6 months from the date of this order. The Trust should include the plaintiff's mother as one of the trustees and should be exempted from providing security.

[56] Consequently, the future loss of income suffered by the plaintiff is an amount of R8 881 875.00. Taking into account the apportionment of 80/20%, this works out to R7 105 500.00 (seven million, one hundred and five thousand, five hundred rand).

Order

[57] In the result, I make the following order:

- a. The defendant shall pay the plaintiff an amount of R7 105 500.00 in respect of the plaintiff's loss of earnings.
- b. The plaintiff's attorneys, A Wolmarans Inc are directed to establish a Trust for the benefit of the plaintiff within a period of six months from the date of this order, in which Trust the plaintiff's mother shall be appointed as one of the trustees and exempted from providing security. Should the Trust not be established within the stipulated period, this order will lapse, and the plaintiff will be required to approach the court on good cause to seek a reinstatement of the order.
- c. The defendant shall issue to the plaintiff an undertaking in accordance with section 17(4)(a) of the Road Accident Fund Act to compensate the plaintiff for 80% of the costs of his future accommodation in a hospital or nursing

home or his treatment and provision of services or goods to the plaintiff, arising from the injuries he sustained in the motor vehicle accident which occurred on 13 May 2017.

- d. In the event of the aforesaid amount not being paid on 14 (fourteen) 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 to the date of payment.
- e. The defendant shall pay the plaintiff's taxed or agreed party and party costs on the High Court tariff in respect of quantum, up to and including 20 November 2025, including the costs consequent upon the employment of counsel, taxed on scale B, and the reasonable, qualifying fees of the following experts:
 - i. Dr Mutyaba, Neurosurgeon;
 - ii. Dr Huth, Neurologist;
 - iii. Mr D Ormond-Brown, Clinical Neuropsychologist;
 - iv. Dr Naidoo, Psychiatrist;
 - v. Prof Chait, Plastic Surgeon;
 - vi. Dr Botha, Specialist Physician;
 - vii. Ms N Janse Van Rensburg, Audiologist;
 - viii. Dr J Seabi, Educational Psychologist;
 - ix. Ms K Cummings, Occupational Therapist;
 - x. Ms S Stevens, Industrial Psychologist; and
 - xi. Mr R Immermann (GW Jacobson), Actuary.

Postea:

[58] Consequent upon the handing down of the judgment on 23 February 2026, it was brought to my attention by the plaintiff's attorneys that the calculations upon which this court applied the apportionment of 80/20% in favour of the plaintiff were incorrect. This was occasioned by the fact that the

apportionment had not been actuarially calculated, and the court deducted the percentage of the apportionment after the cap had been applied. Consequently, the calculations arrived at by this court are patently incorrect. The incidental order as stipulated in order [a] is similarly incorrect.

[59] The plaintiff obtained a revised actuarial calculation, which takes into account the 80/20% merits apportionment and applied the apportionment after the contingencies, but before the cap.

[60] I requested the defendant to make submissions, if any, on 05 March 2026 on the issue raised by the plaintiff. No submissions were received.

[61] On the strength of the decision in *Jonosky v RAF*⁵ that statutory provisions which interfere with elementary rights of a claimant should be interpreted to cause the least invasion of such rights, I am inclined to agree with the approach followed by the plaintiff. In addition, in *Nel v Road Accident Fund*⁶, the court held that ‘(i)t is inconceivable that a different approach than that adopted for the deduction of contingencies could be justified with regard to the deduction for contributory negligence.’

[62] I am indebted to the legal representatives for pointing out this discrepancy.

[63] Rule 42(1)(b) of the Uniform Rules of Court confers the power to this court to ‘in addition to any other powers it may have, *mero motu* or upon the application of any party affected, rescind or vary:

(a) ...

(b) An order or judgment in which there is an ambiguity, or a patent error or omission, but only to the extent of such ambiguity, error or omission “

⁵ 2013 (5) SA 356 (GSJ) para 11.

⁶ [2015] ZAGPPHC 817; 2016 (2) SA 517 (GP) para 11.

[63] Consequently, I proceed to correct the error in the above judgment to the extent of the miscalculation, by:

- (i) removing the amount of R7 105 500 in paragraph [a] and
- (ii) replacing it with the corrected amount of R7 788 077.
- (iii) correcting order [a] to the extent of the error.

[64] In the result, I make the following order:

- a. The defendant shall pay the plaintiff an amount of R7 788 077.00 in respect of the plaintiff's loss of earnings.
- b. The plaintiff's attorneys, A Wolmarans Inc are directed to establish a Trust for the benefit of the plaintiff within a period of six months from the date of this order, in which Trust the plaintiff's mother shall be appointed as one of the trustees and exempted from providing security. Should the Trust not be established within the stipulated period, this order will lapse, and the plaintiff will be required to approach the court on good cause to seek a reinstatement of the order.
- c. The defendant shall issue to the plaintiff an undertaking in accordance with section 17(4)(a) of the Road Accident Fund Act to compensate the plaintiff for 80% of the costs of his future accommodation in a hospital or nursing home or his treatment and provision of services or goods to the plaintiff, arising from the injuries he sustained in the motor vehicle accident which occurred on 13 May 2017.
- d. In the event of the aforesaid amount not being paid on 14 (fourteen) 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 to the date of payment.

- e. The defendant shall pay the plaintiff's taxed or agreed party and party costs on the High Court tariff in respect of quantum, up to and including 20 November 2025, including the costs consequent upon the employment of counsel, taxed on scale B, and the reasonable, qualifying fees of the following experts:

- i. Dr Mutyaba, Neurosurgeon;
- ii. Dr Huth, Neurologist;
- iii. Mr D Ormond-Brown, Clinical Neuropsychologist;
- iv. Dr Naidoo, Psychiatrist;
- v. Prof Chait, Plastic Surgeon;
- vi. Dr Botha, Specialist Physician;
- vii. Ms N Janse Van Rensburg, Audiologist;
- viii. Dr J Seabi, Educational Psychologist;
- ix. Ms K Cummings, Occupational Therapist;
- x. Ms S Stevens, Industrial Psychologist; and
- xi. Mr R Immermann (GW Jacobson), Actuary.

S Mfenyana
Judge of the High Court

Date heard: 19 – 20 November 2026

Date of judgment: 17 February 2026

Date corrected: 10 March 2026

This judgment was handed down electronically by circulation to the parties' representatives by email and by uploading the judgment onto Caselines. The date of delivery of the judgment is deemed to be **10 March 2026**.

Appearances

For the plaintiff:

Counsel: A M Van der Merwe

Instructed by A Wolmarans Inc.

For the defendant:

Counsel: T Tivana

Instructed by: State Attorney, Johannesburg