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REPUBLIC OF SOUTH AFRICA



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

CASE NO: 79533/16

- (1) REPORTABLE: ~~YES~~/NO
- (2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
- (3) REVISED.

.....
SIGNATURE

.....
DATE

In the matter between:

MOHAMMED AMEEN VALLEY

Plaintiff/Applicant

and

THE ROAD ACCIDENT FUND

Defendant /Respondent

*This judgment was prepared and authored by the Judge whose name is reflected and is electronically circulated 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 **22 May 2026**.*

JUDGMENT

MASHAMBA AJ

INTRODUCTION

- [1] The plaintiff, Mohammed Ameen Valley, a male person, born on 19 May 1990, has instituted an action against the Road Accident Fund (“the defendant”) for damages resulting from personal injuries sustained on 26 March 2015, at N12, Freedom Park, Johannesburg, Gauteng Province.
- [2] The plaintiff was 24 years old when the accident occurred and currently 35 years old, employed as an accountant.
- [3] The defendant’s defence was struck out on 05 March 2024 as a result of the defendant’s failure to participate in litigation.
- [4] On 30 January 2019, the court ordered that the defendant should compensate the plaintiff 100% of his proven or agreed damages.
- [5] The matter was before this court on a default basis on 30 March 2026.

ISSUES BEFORE THE COURT

[6] The court is called to determine the plaintiff's claim for general damages, past and future medical expenses, past and future loss of earnings. In terms of the amended particulars of claim, the plaintiff claimed an estimated amount of **R 13 600 000.00** calculated as follows;

6.1 Past Medical Expenses	R 100 000.00
6.2 Future Medical Expenses	R 1 500 000.00
6.3 Past and future Loss of Income	R 9 500 000.00
6.4 General Damages	R 2 500 000.00

[7] The defendant, previously was ordered to issue an undertaking certificate in terms of section 17(4) of the Road Accident Fund Act 56 of 1996, as amended, therefore, future medical expenses are to be covered by the undertaking certificate.

[8] The plaintiff made an application in terms of Rule 38(2) of the Uniform Rules of Court, pleading that the experts' evidence to be adduced in court should be given on affidavits. The court granted the above-mentioned application.

[9] The plaintiff appointed several medical experts, to prepare their respective reports in order to substantiate his claim. The plaintiff relied on the following expert reports;

- 9.1 Dr Engelbretcht (Orthopaedic Surgeon)
- 9.2 Dr Smuts (Neurologist)
- 9.3 Dr Kruger (Neurosurgeon)
- 9.4 Dr D Deklerk (Neurosurgeon)
- 9.5 Dr Mazabow (Clinical Psychologist)
- 9.6 Dr Nel (Psychiatrist)
- 9.7 Natash Van der Heyde (Occupational Therapist)
- 9.8 Dr W Pretorius (Industrial Psychologist)
- 9.9 Munro (Actuaries)

[10] The plaintiff made his submissions based on the conclusions of the medical experts' reports duly filed before this court. The court evaluated the probabilities of all experts' opinion as per their respective reports. The court considered the case of **Prince v Road Accident Fund**¹, where the court held at paragraphs 55, 56 and 59 in the evaluation of the probabilities in respect of expert evidence.

“Sufficient proof is established when an inference can be drawn about the fact in issue, providing that the inference is consistent with all the proven facts. In civil matters, it suffices if the inference is the most probable inference. Further, once prima facie proof or evidence has been provided, that is proof calling for an answer. This becomes conclusive proof on the point in issue usually if no evidence is produced to rebut it.

The fact of the matter is, however, that the Court must at the end of the case reviews all the evidence and evaluate this according to the applicable primary criterion. It must be accepted, of course, that where, for example, a Defendant fails to produce

¹ (CA 143/2017) [2018] ZAECGHC 20 (20 March 2018). Par 55, 56 & 59

evidence, this does not mean necessarily that the opponent's version in the case, falls to be accepted. The acceptance of Plaintiff's case depends on the probative strength of Plaintiff's case, being whether it is sufficient to cast, an evidential burden on the Defendant to present evidence."

PLAINTIFF'S INJURIES AND EVIDENCE

- [11] The medical records from Lenmed Hospital show that the plaintiff had the following injuries; head injury, open wound on the lower lip or small laceration of the lip, GCS was 15/15, awake, not confused, No loss of consciousness and C spine no tender.
- [12] Dr P Engelbrecht, an Orthopaedic surgeon (Ortho), examined the plaintiff on 05 May 2017 and 08 September 2025. He noted the following injuries; soft tissue injury to cervical spine, soft tissue injury of thoracic spine, Head injury, Laceration to lower lip, injury to the chest, both arms and a lower leg. The Ortho indicated that from Lenmed hospital, CT scan of the brain was performed, Frontal lobe haemorrhagic contusion was noted. The Ortho also noted that the clinical notes indicated a Gastro-intestinal bleeding and the patient was put on Nexiam².
- [13] The Ortho further noted that the plaintiff complained of stiffness of the neck, pain in the upper cervical spine which indicated to be sharp in nature, the pain is intermittent and occasional experienced at night. The back pain with some stiffness, mid-back area, thoraco-lumber spine juncture. Rotation aggravates

² Caseline18.08-10

symptoms of a back pain, intermittent in nature, localizes in lower back. Headache remains a problem as well as loss of concentration and loss of memory³.

[14] Dr J.H Kruger, neurosurgeon, (Neuro), examined the plaintiff on 11 September 2025. The Neuro, noted that on admission to Lenmed Hospital, The Glasgow Coma Scale (GCS) was 15/15, no mention was made of loss of consciousness or any secondary event that took place, that could have aggravated any injuries sustained in the accident. A CT scan of the brain was processed after the accident and it was recorded normal. The Neuro, indicated that according to RAF 1 form, the plaintiff had a frontal lobe haemorrhagic contusion⁴. The Neuro, further noted that the plaintiff was admitted to the intensive care unit for two-three days and then discharged home. When the plaintiff was discharged home, he was neurologically intact and able to attend the activities of daily living⁵.

[15] The neurosurgeon indicated that he would not usually expect cognitive mental problems, executive mental problems, educational problems or psychological/psychiatric complaints as a consequence of a mild traumatic brain injury. In 15% of patients, long term sequelae may be present. The neuro referred back to the report of the clinical psychologist, Dr M Mazabow⁶.

[16] Dr D De Kerk, a neurosurgeon, assessed the plaintiff on 10 October 2017, he

³ Caseline 18.08-121

⁴ Caseline 18.08-136

⁵ Caseline 18.08-137

⁶ Caseline 18.08-140

mentioned in his report that CT scan was performed and that the results were reported normal⁷. Dr De Klerk mentioned that the plaintiff had a previous motor vehicle accident and indicated that as a result of the said accident, the plaintiff had a minor injury of his abdomen. Dr De Klerk reported that the plaintiff was not admitted as a result of the injury incurred from the previous motor vehicle⁸.

[17] Dr De Klerk concluded that although the CT brain is normal, but the head injury might be more serious. The neurosurgeon indicated that he considered that the plaintiff is more gifted as he was doing his articles but the fact that he was asked by his employer to resign as a result of his poor memory and poor concentration. Dr De Klerk classified the head injury as a moderate diffuse traumatic brain injury without focal component⁹.

[18] Dr J.A Smuts, the neurologist, examined the plaintiff on 27 February 2018 and 08 September 2025, the neurologist opined that the plaintiff sustained a significant head injury and was left with mild brain injury but possible mild to moderate frontal brain damage¹⁰.

[19] Dr M Mazabow, neuropsychologist, examined the plaintiff on 09 September 2025 and 15 September 2025, respectively. The neuropsychologist reported that the plaintiff had a previous accident in 2014 and that he was hospitalized for a day or two but with no requirement for treatment, as after laparoscopy he was found with no symptoms. The neuropsychologist reported that the plaintiff failed his accounting honours

⁷ Caseline 18.08-26

⁸ Caseline 18.08-26

⁹ Caseline 18.08-33

¹⁰ Caseline 18.08-180

degree in 2013, again in 2014 and that in 2015 he was repeating the accounting honours degree for the third time.

[20] The neuropsychologist indicated that the plaintiff overall clinical presentation and his neuropsychological test-results (which are stable across the 7 years period) and his ongoing cognitive behavioural and interpersonal changes, would be keeping with the expected sequelae of a traumatic brain injury of the nature/severity sustained in the accident, compounded by effects of severe depression and anxiety, and of chronic pain¹¹.

[21] Natasha Van Der Heyde, an Occupational Therapist (OT), examined the plaintiff on 18 June 2020, 08 September 2025 and 18 September 2025. The OT opined that, in regard to the plaintiff residual work capacity, he displayed the strength for working up to medium demand on an occasional basis and meets the demand level for his pre and post-accident jobs as a leaner accountant. The plaintiff social presentation has again not on par with the expected of individuals with his level of education with yawning and psychological fatigue noted 60 minutes into assessment. He again conversed a soft monotone voice with his volition and energy level very low.

[22] The OT further opined that the plaintiff remains significantly compromised and disadvantaged in comparison with his peers. Considering his post-accident

¹¹ Caseline 18.08-166

employment history OT believes it is unlikely that he will manage to secure and maintain employment in the open labor market¹².

Postulations of the Plaintiff's Loss of Earnings

[23] Dr W Pretorius, an Industrial Psychologist (IP), examined the plaintiff on the 30 June 2020, 28 April 2022, 11 September 2025 and last 04 March 2026. I would consider the plaintiff's past and future loss of as postulated by the IP. The IP postulated the loss as follows;

23.1 Uninjured Earning Postulation- The IP considered that from 2015/02/01 until 2017/02/01 the plaintiff earned a gross income of R 212 239 per annum and assumed he would have probably passed his ITC and APC exams during this 3 years period. He would have been accredited by SAICA as Chartered Accountant. He would have probably secured work as a Management Accountant, Auditor or similar position in either non-corporate or corporate sector. He would have earned a salary of R 526 000.00 which is Paterson C1, with straight line growth to age 35. He would from age 35, he would probably become a supervisor / manager earning **R 1 723 000** per annum, which is Paterson D4 according to Koch 2025 earning corporate scale. Accept inflation growth until the retirement age at 67.5 years.

23.2 Injured Earnings Postulation- The IP assume that the plaintiff will probably loss his current employment by end of 2025/12. Thereafter he will probably remain unemployed for 6 months whilst looking for

¹² Caseline 18.08-199

sympathetic employment in a supervised environment. The IP assumes that from June 2026, the plaintiff will probably re-enter the open labour market as accommodated Bookkeeper, Accounting Clerk or similar in a supervised environment, probably securing work in the non-corporate sector. The IP assumes earnings from July 2026, in the amount of R 39 057.67 per month, which is R 468 692.04 per annum. The IP assumes that for calculation R 411 596.02 per annum, which is the value between median and upper quartile of Koch's 2025 skilled scale.

23.3 The IP indicated that due to the plaintiff symptomologies and need for accommodation, he can be expected to work in the non-corporate sector for the remainder of his career with inflation related growth until retirement. The IP assumed early retirement of 2 years and 3 months, thus for calculations by age 62 and 9 months.

[24] The IP considered that at the time of accident, 26/03/2015, the plaintiff worked as a trainee accountant (clerkship) at RSM since 01/02/2015, busy with his 3 years clerkship with his gross taxable income of R212 239 per annum. The IP noted that he failed The South African Institute of Chartered Initial Test of Competence (ITC), as well as Professional Competence exams in 2016 until 2021. The plaintiff finally passed in 2022 and has been accredited Chartered Accountant since 2023. The IP indicated that the plaintiff was dismissed in 2017/03/30 due to poor performance as a result of the injuries allegedly incurred in the accident in question.

[25] The IP accepted that from 2017/05/15 until 2018/06/01 the plaintiff was employed as a senior auditor until the company was liquidated and he lost his position. During 2018/06/01 he was appointed an assistance manager at Deloitte for a year until 2019/06/30. During 2019/07/01 to 2020/06/09 he was unemployed with no earnings. During 2021/04/14 he was employed as a Financial Manager at Vryburg Private Hospital until 2023/10/31 when he resigned due to complaints about his performance as per email from Mr Vengasai and also, he wanted to move to join his family in Johannesburg. During 2021/04/14 until 2022/02/28 his earnings was 387 809 per annum and between 2022/03/01 until 2023/10/31 his earning was R 372 570 per annum.

[26] The IP considered that he was employed in 2022/11/01 as Financial Accountant at Adamjee Group until he was dismissed in 2024/03/15 due to under performance. He was not employed from 2024/03/16 until end February 2025. Therefore, he was employed at ZYC Commodity Trading as a Management Accountant from 2025/03/01 earning the gross income of R 234 346.00. The ZYC is the company belonging to his father and already made a mistake which costed the company over a million.

[27] The plaintiff appointed Munro Actuaries to calculate his past and future loss of income based on the postulations made by the IP. The contingencies of 5 % past loss, 15 % pre-morbid and 25 % post morbid was applied.

Pre-accident post-accident Loss

	Pre-accident	post-accident	Loss
Past income	5 102 300	2 979 000	

Past contingencies 5%			
Net past income	4 821 674	2 979 000	R 1 842 674
Future income	21 277 700	6 612 300	
Future Contingencies 16% premorbid & 26% postmorbid	17 873 278	4 893 102	12 980 166
Total loss of earning			14 822 840
Impact of cap			(6423440)
Net Loss			8 399 400

PLAINTIFF'S SUBMISSIONS

- [28] The plaintiff's counsel submitted that the plaintiff's injuries sustained in the accident in question are significant as outlined in the medical experts' reports. The counsel referred the court to all experts' reports and further submitted that the plaintiff had a previous accident with minor injury of the abdomen and that the injury had no significant impact to the plaintiff. The plaintiff's counsel further indicated that conspicuously, the plaintiff should be compensated for past medical expenses, loss of earnings and general damages.
- [29] The counsel argued that the amount of **R 37 884.52** should be granted for pass

medical expenses as the proofs or medical vouchers were in the case line. The counsel further referred the court to the actuarial report and submitted that the amount of **R 8 399 400** after the application of contingency deduction and RAF cap should be ordered as a fair and reasonable amount compensate the plaintiff for his loss of earning capacity.

[30] The counsel further submitted that the plaintiff should be compensated the amount of **R 1 250 000.00** for general damages. The court was referred to various case laws to substantiate that the abovementioned amount is reasonable to compensation the plaintiff for general damages. I will only refer to the few among the case laws I was referred to by the plaintiff's counsel.

[31] The court was referred to the case of ***Mofokeng v Road Accident Fund***, 2014 JDR (GJ) per Opperman AJ (Judgment handed down on 1 July 2014), where a 23 years old female had an accident and sustained a soft tissue injury of the neck, a soft tissue injury of the lower back and a head injury. The brain injury was referred to as a diffuse rotational shear injury, invisible to MRI scans, characterised by an effective disconnection between the frontal lobes and the rest of the brain to lesser or greater degree. The plaintiff was unconscious for about an hour. The plaintiff was fitted with a cervical collar. The plaintiff was discharged the same day. The plaintiff became forgetful and personality changes occurred. The lumbar spine range of movement was restricted. The court awarded her R 700 000.00 for general damages in 2014 and the present value in 2026 is R 1 229 283.00

[32] The court was further referred to the case of **Van der Merwe , CM v RAF**, Gauteng High Court, cn 88926/2015; unreported per R.O Fourie AJ, where the plaintiff suffered a minor/mild concussive head injury and brain damages, facial injury, thoracic spine, T10 compression fracture, lung contusion with rib fractures and reflux associated to chest injury, fracture of the left hand , lower back injury, right knee plateau fracture, injury to the right foot and ankle. The plaintiff was awarded R 1 400 000.00 in 2020 that has a 2026 value of R 1 867 348.00.

COURT'S DISCUSSION AND FINDINGS

Loss of Earnings

[33] This leads me to the issues of the past and future loss of earning capacity and contingencies to be applied. In this regard I am also guided by **Mngomezulu v RAF**¹³, Kgomo J argued that:

"[84] For the Plaintiff to succeed in a claim for loss of earnings, he is required to provide a factual basis for an actuarial calculation. This is a process designed to assess actuarial / mathematical calculations on the basis of the evidence as well as over-all assumptions vesting or depending on such evidence. This approach is known as the actuarial approach.

[85] The actuarial approach seeks to determine the loss of earnings as realistically as possible to what may be the Plaintiff's actual losses. The approach comprises of (a) providing a factual basis upon which the loss of earning is to be calculated and only then (b) by applying appropriate contingency deductions."

¹³ (Case No. 04643/2010) [2011] ZAGPJHC 107 (8 September 2011)

[34] When deciding issues of past and future loss of earnings, this court has considered a decision in ***Southern Insurance Association Ltd v Bailey*** **NO**¹⁴ Nicholas JA stated as follows:

“Where the method of actuarial computation is adopted, it does not mean that the trial Judge is “tied down by inexorable actuarial calculations”. He has “a large discretion to award what he considers right” One of the elements in exercising that discretion is the making of a discount for “contingencies” or the “vicissitudes of life”. These include such matters as the possibility that the Plaintiff may in the result have less than a “normal” expectation of life; and that he may experience periods of unemployment by reason of incapacity due to illness or accident, or to labour unrest or general economic conditions. The amount of any discount may vary, depending upon the circumstances of the case.”

[35] The neurosurgeon, Dr D Deklerk, was influenced by the reported challenges and that the plaintiff repeated his chartered accountant board exam to opine the type of head injury as moderate diffuse traumatic brain injury but he did not consider that the plaintiff had previous scholastic challenges as he failed or repeated his honours degree twice before the accident, as reported by the plaintiff to Dr Mazabow¹⁵.

[36] The IP, Dr W Pretorius also mentioned all injuries and sequelae as reported by different experts in order to postulate the plaintiff loss of earnings. The IP opined that the plaintiff failed the chartered accountants’ board exam due to the injuries

¹⁴ [1984 \(1\) SA 98](#), par 116-117

¹⁵ Caseline 18.08-40-41

sustained in the accident in question. The worst part is that the IP indicated that as a result of the accident in question the plaintiff had to repeat chartered accountant board exams several times and opined that pre-accident the plaintiff would have likely become a chartered accountant in 2018 but as a result of the accident in question, he only passed his accountant board exam in 2022. The court finds that the IP basis for his opinion was done without careful investigation of the plaintiff's previous scholastic challenges. The IP postulation with regard to scholastic performance without the report of the educational psychologist was unsubstantiated and overreaching and the court vehemently reject it.

[37] No educational psychologist was appointed to assess the plaintiff's scholastic challenges; therefore, it was an overreaching for the industrial psychologist to opine that the injuries sustained in the accident, caused the plaintiff's delay to pass his accountants' board exam. The court finds that the delay was not entirely caused by the accident in question. The plaintiff presented with pre-existing scholastic challenges, as evidenced by his having repeated his Honours degree twice prior to the accident in question. This history indicates an established pattern of academic difficulty independent of the collision. The plaintiff passed his honours degree on the third attempt in 2015 after accident.

[38] The court also noted that the CT brain scan with the following results "*Right asymmetric frontoparietal hypodensity suggestive of non haemorrhagic contusion*"¹⁶. Dr Asad Mushtaq on the statutory medical report form, indicated that the plaintiff

¹⁶ Caseline 18.08-100

had intercranial bleed (active haemorrhage), No CT scan was attached to proof this assertion. The neurosurgeon, and neurologist mentioned that the CT scan was normal. The court was not provided with a CT scan to confirm active haemorrhage.

[39] The court notes from the clinical records that, under the plaintiff's medical history, he was admitted approximately two years prior to the accident for gastrointestinal (GI) bleeding. This type of condition is, in my view, of a serious nature, and it is regrettable that none of the experts appear to have assessed or addressed its relevance in their reports¹⁷. The court also notes that gastrointestinal distension was treated during the plaintiff's 2015 accident. This makes it conspicuous that the abdominal injury sustained in 2014 was of a severe nature, given that its sequelae appear to have persisted and required further medical intervention the following year¹⁸.

[40] The plaintiff did not place before the court the hospital records relating to the 2014 accident, which occurred a year prior to the accident in question. In the absence of these records, the court is unable to assess the nature, extent, or sequelae of the earlier injuries. The court finds that the hospital records from the previous accident would have been of considerable assistance in determining whether the injuries sustained at that time had any detrimental effect on the plaintiff's health. Such records are also necessary to assess whether those earlier injuries were serious in nature and whether they

¹⁷ Caseline 18.06-83

¹⁸ Caseline 18.06-128

contribute in any way to the plaintiff's current medical presentation.

[41] The court's view is that the injuries sustained in the 2014 accident had a detrimental impact on the plaintiff's health, and that by the time of the accident in question his health was already compromised. The plaintiff reported that, following the 2014 accident, he sustained only minor abdominal injuries and was not admitted. However, in some expert reports he is recorded as having stated that he was hospitalised for a day or two. Despite these inconsistencies, none of the experts requested or obtained the hospital records to verify the plaintiff's account. This omission leaves the court without reliable evidence regarding the nature and severity of the 2014 injuries.

[42] The Neuropsychologist, Dr Malzabow, in his report dated 9 February 2018, recorded that the plaintiff had failed his Honours degree twice. However, he did not investigate or enquire into the possible causes of the plaintiff's scholastic difficulties in 2013 and 2014. Instead, he attributed the plaintiff's neurocognitive sequelae solely to the accident in question. This omission is material, as it overlooks pre-existing academic challenges that may bear directly on the plaintiff's current presentation.

[43] I have considered all the evidence before me and conclude that the plaintiff sustained a mild to moderate traumatic brain injury with concussion. I further find that the unassessed injuries arising from the 2014 accident significantly contributed to the sequelae now reported by the plaintiff. The failure to properly investigate and assess those earlier injuries has left the court without

a complete picture of the plaintiff's pre-existing vulnerabilities, which in turn bears directly on the evaluation of the injuries attributed to the accident in question.

[44] The above considerations constitute the court's reasons for departing from the experts' conclusions and their proposed contingencies when assessing the plaintiff's reasonable loss of earning capacity. Having regard to the plaintiff's pre-existing vulnerabilities and the contributory impact of the unassessed injuries from the earlier accident, the court finds that the plaintiff should be compensated for the diminution of his earning capacity by applying a spread of 15%, on the basis that his pre- and post-morbid earning potential is to be regarded as equal.

	Pre-Accident	Post-Accident	Loss
Postulated Past and future Income	R 26 330 000	R 26 330 000	
SPREAD OF 10%	15%	30%	
	R 22 380 500	R 18 431 000	
TOTAL			R 3 949 500.00

[45] In the circumstances, the court finds that the appropriate amount to be awarded to the plaintiff in respect of his loss of earning capacity is the sum of **R3 949 500.00** (Three Million, Nine Hundred and Forty-Nine Thousand, Five Hundred Rand).

[46] The court finds that the plaintiff should be compensated in the amount of **R37 884.52** (Thirty-Seven Thousand, Eight Hundred and Eighty-Four Rand and Fifty-Two Cents), as supported by the invoices provided.¹⁹

General Damages

[47] The defendant has sent a correspondence letter on 22 October 2025, acknowledged that the plaintiff sustained a mild head injury and accepted that the plaintiff qualifies for the compensation for general damages. This court should proceed to deal with the issues of general damages.

[48] Moseneke DCJ in **Van der Merwe v Road Accident Fund and Another**²⁰ stated that,

“non-patrimonial damages, which also bear the name of general damages, are utilized to redress the deterioration of a highly personal legal interests that attach to the body and personality of the claimant. However, ordinarily the breach of a personal legal interest does not reduce the individual’s estate and does not have a readily determinable or direct monetary value. Therefore, general damages are, so to speak, illiquid and are not instantly sounding in money. They are not susceptible to exact or immediate calculation in monetary terms. In other words, there is no real relationship between the money and the loss. In bodily injury claims, well-established variants of general damages include “pain and suffering”, “disfigurement”, and “loss of amenities of life.”

¹⁹ Caseline 18.05

²⁰ (CCT48/05) [2006] ZACC 4

[49] **Sandler v Wholesale Coal Supplies Ltd**²¹ where the court held that;

“The amount to be awarded as compensation can only be determined by the broadest General considerations and the figure arrived at must necessarily be uncertain, depending upon the judge’s view of what is fair in all the circumstances of the case”.

[50] The plaintiff’s counsel referred the court to various authorities in which the injuries were comparable to those sustained by the plaintiff. Having carefully considered the nature of the plaintiff’s injuries and their sequelae, I am satisfied that an award of **R800 000.00** (Eight Hundred Thousand Rand) constitutes a fair and reasonable amount in respect of general damages.

[51] I have considered the opinion of the neuropsychologist who recommended that a trust should be opened on behalf of the plaintiff.

COSTS

[52] The court shall not deviate from the general rule that the cost shall follow the successful party.

ORDERS

[53] In the circumstances, I make the following order;

1. The defendant shall pay to the plaintiff the sum of **R4 787 384.52** (Four

²¹ 1941 AD 194 at 199

Million, Seven Hundred and Eighty-Seven Thousand, Three Hundred and Eighty-Four Rand and Fifty-Two Cents) in respect of general damages, loss of earning capacity, and past medical and hospital expenses, which amount is made up as follows:

- (i) R 37 884.52, for past medical and hospital expenses.
- (ii) R 800 000.00, for general damages.
- (iii) R 3 949 500.00, for loss of earning capacity.

2. The Amount in paragraph 1 above shall be paid into following Bank Accounts;

NAME OF BANK: STANDARD BANK

ACCOUNT HOLDER: SALOMe LE ROUX TRUST ACCOUNT

TYPE OF ACCOUNT: TRUST CHEQUE ACCOUNT

ACCOUNT NO: 0[...]

BRANCH CODE: 01-00-45-00

REF NO: V0615

3. The defendant shall be liable to pay interest on the aforesaid amounts

tempore morae at the rate of 10.25% per annum from 14 days after the date of this order to date of the payment.

4. The defendant shall pay the plaintiff 's taxed or agreed party and party costs until the date of this order including counsel's fee on scale C, Including;

- 4.1 The costs consequently in the preparation of and obtaining the medico legal and actuary reports that were served on or provided to the defendant.
- 4.2 The reasonable taxable preparation, qualifying and reservation fees, if any of the plaintiff's experts for trial of whom notice was given to the defendant.
- 4.3 The reasonable taxable costs of necessary consultations with the said experts and the reasonable taxable traveling, subsistence and accommodation costs of the plaintiff for attending the medico legal examination, subject to the discretion of the taxing master.
- 4.4 The reasonable taxable costs of traveling, subsistence, accommodation costs of the plaintiff for attending court.
- 4.5 The costs for referring the matter to HPCSA, for determination of the seriousness of the plaintiff's injuries in terms of regulation 3(3) of the Act.
- 4.6 Cost for drafting the application in terms of Rule 38 (2).
- 4.7 The fees and costs of the curatrix ad litem incurred in compliance with her duties in general and as laid down in the order appointing her as such to include her fee for preparing her report to court and her day fee for 30 March 2026 such costs to be taxable on high court scale B.
- 4.8 The defendant shall be liable to pay interest on the amount of the Plaintiff's costs of suit, as taxed or agreed, at 10.25 % per annum from 14 (fourteen days) of the allocatur of the taxing master or the date of the agreement, whichever applies, to date of payment.

5. Tammy-Jean van Jaarsveld of Tammy van Jaarsveld attorneys who consented thereto in terms of **Annexure “X”** is hereto appointed as trustee to a trust to be established for the benefit of MOHAMMED AMEEN VALLEE with the powers and duties as set out in the draft trust deed attached hereto as **Annexure “XX”**.

6. The defendant shall upon demand pay all costs, disbursements of the trustee incurred in respect of the trust and in the protection of the award of the plaintiff. If the defendant neglects to pay such costs, fees and disbursements upon demand, interest shall accrue on the defendant's indebtedness in this regard to be calculated a *tempore mora* to date of final payment at the statutory *mora* rate of interest applicable from time to time.

E MASHAMBA
ACTING JUDGE OF THE HIGH COURT,
PRETORIA; GAUTENG DIVISION

APPEARANCES

FOR THE PLAINTIFF : ADV LUDVICH VISSER

INSTRUCTED BY : SALOME LE ROUX ATTORNEYS

FOR THE DEFENDANT : NO APPEARANCE

DATE OF HEARING : 30TH MARCH 2026

DATE OF JUDGEMENT : 22ND MAY 2026