



IN THE HIGH COURT OF SOUTH AFRICA

(MPUMALANGA DIVISION, MBOMBELA MAIN SEAT)

CASE NUMBER: 750/2025

(1)	REPORTABLE:NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
	18/08/2026
SIGNATURE	DATE

In the matter between:

MANZINI THEMBELIHLE RICARDO

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

This Order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by email. This Order is further placed on caselines by the Judge or her/his Secretary. The date of this order is deemed to be 18 August 2026.

JUDGMENT

GUMEDE AJ

1. The Plaintiff, Ms Thembelihle Recardo Manzini, an adult female born on 4 September 1991, instituted action against the Defendant, the Road Accident Fund (“the Fund”), for damages arising from a motor vehicle collision that occurred on 3 October 2021 on or near the R40 Public Road, Hoedspruit, Mpumalanga Province. The Plaintiff was a passenger in the insured vehicle at the time of the collision and was 30 years of age at the time of the collision.
2. The Fund accepted liability to compensate the Plaintiff for 100% of her agreed or proven damages, and issued an undertaking in terms of section 17(4)(a) of the Road Accident Fund Act 56 of 1996 in respect of the Plaintiff’s future accident-related medical and hospital expenses. The Fund also tendered the sum of R900 000.00 in respect of general damages. This amount was accepted by the plaintiff.
3. The only issue remaining for determination is the claim for past and future loss of earnings. In her amended particulars of claim the Plaintiff claims R500 000.00 in respect of past loss of earnings and an amount of R11 000 000.00 in respect of future loss of earnings.

THE EVIDENCE

4. The plaintiff's expert evidence was placed before me by way of affidavit in terms of Rule 38(2) of the Uniform Rules of Court.
5. The evidence is that the plaintiff sustained a left acetabular fracture with extension into the pelvic ring and an inferior rami fracture. She was hospitalised for approximately two months and treated conservatively with no surgical intervention.
6. Dr J Sibanyoni, orthopaedic surgeon, records a healed left acetabular fracture with non-union, cortical irregularity, a subchondral cyst and post-traumatic arthritis, and assessed the Plaintiff's Whole Person Impairment at 34%, qualifying as a serious injury under the narrative test. He opines that the Plaintiff will probably retire approximately 15 years earlier than the norm.
7. Dr F Sithole (obstetrician and gynaecologist) and Dr Qulu (urologist) confirm chronic left hip and inguinal pain, a fixed flexion deformity necessitating delivery by caesarean section, and mixed urinary incontinence consequent upon the pelvic injury. Mrs G Bokaba, clinical psychologist, diagnoses post-traumatic stress disorder together with chronic physical pain.
8. Mrs G Moila, occupational therapist, is of the opinion that the plaintiff no longer has the physical capacity for medium to heavy work (such as farm and packing work) and is restricted to light-category work, rendering her a less competitive candidate in the open labour market.
9. The record shows that notwithstanding her injuries the plaintiff has continued to pursue her studies. She enrolled at White River Technical College and completed the N2 to N6 theoretical modules in Electrical Engineering and is completing the in-service component of that qualification.

10. Mrs Kheshwa, the industrial psychologist, concludes that the plaintiff has been rendered permanently unemployable. That conclusion does not align with the undisputed fact that the plaintiff has successfully completed the theoretical component of a recognised electrical engineering qualification and continues with the process of completing her in-service training. I am not persuaded that conclusion is a more probable outcome.
11. in my view, the proper approach is not to award compensation on the basis of total unemployability, but rather a diminished capacity to compete in the open labour market.

APPLICABLE LEGAL PRINCIPLES

12. It is trite that a plaintiff claiming loss of earning capacity must establish both the physical disability relied upon and that it will probably result in actual patrimonial loss.
13. There can be no precise mathematical computation in the assessment of damages of this nature, I have only my discretion to rely on to arrive at the best estimate of the plaintiff's loss (Southern Insurance Association Ltd v Bailey NO 1984 (1) SA 98 (A)). There is also no fixed formula to determine contingency deductions.

Past loss of earnings

- 14 Applying the normal contingency of 5% to both the pre- and post-morbid actuarial values of past income (uninjured: R304 029.00; injured: R60 568.00), the net past loss is calculated as follows:

Net past loss of earnings: R 288 827.55 less R 57 539.60 = R 231 287.95.

Future loss of earnings

15. Having regard to the plaintiff's demonstrated residual earning capacity and her suitability for light-category work I am unable to accept the "unemployable"

scenario advanced on the plaintiff's behalf and therefore propose to apply a differential contingency and to increase the normal future contingency of 15% to the pre-morbid income to 38% to reflect the substantial, but not total, erosion of the plaintiff's earning capacity occasioned by her injuries.

	Uninjured	Injured
Value of future income	R 12 610 233.00	R 12 610 233.00
Contingency deduction	15%	38%
Less contingency	R 1 891 534.95	R 4 791 888.54
Net value	R 10 718 698.05	R 7 818 344.46

Net future loss of earnings: R 10 718 698.05 less R 7 818 344.46 = R 2 900 353.59.

16. The award for future loss of earnings, R2 900 353.59 is below both the amount contended for by the plaintiff and by the defendant, and in my assessment represents a fair and reasonable reflection of the plaintiff's proven, but partial, loss of future earning capacity.
17. I must add that the amended particulars of claim reflect an amount of R11 million claimed for future loss of earnings and that both parties simply worked out their contingency deductions on the amount of R 12 610 233.00, hence the application of an even higher contingency deduction.

COSTS

18. The trite principle is that costs follow the result. The Plaintiff has substantially succeeded in her claim and is entitled to her taxed or agreed party and party costs.

ORDER

1. The Defendant is liable to pay the Plaintiff the sum of R 3 131 641.54, made up of past loss of earnings of R 231 287.95 and future loss of earnings of R 2 900 353.59.
2. The amount referred to in paragraph 1 is payable in addition to the general damages of R900 000.00 already settled between the parties and the undertaking furnished in terms of section 17(4)(a) of Act 56 of 1996.
3. Interest on the amount in paragraph 1 shall accrue at the prescribed legal rate from 180 (one hundred and eighty) days after the date of this order to date of payment.
4. The Defendant shall pay the Plaintiff's taxed or agreed party and party costs of suit on the High Court scale, such costs to include the qualifying, preparation and reservation fees (if any) of the expert witnesses referred to in this judgment.



Zodwa Gumede

Acting Judge of the High Court

APPEARANCES

For the Plaintiff

Mr PL Magagula

Instructed by J Mnisi and Associates Inc

For the Defendant

Ms G Mokoena

Instructed by the State Attorney, Nelspruit

Heard on

30 March 2026

Delivered

18 August 2026