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THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

Not Reportable

Case No: 10758/2018

In the matter between:

LEE GABRIEL N.O **PLAINTIFF**

(RE: CURATOR TO O[…] M[…])

and

ROAD ACCIDENT FUND **DEFENDANT**

Coram: YAKE AJ

Heard: 19 August 2026

Delivered: Electronically on 30 October 2026

Summary: Delict - *Damages – Future loss of earning capacity and general damages* – Minor child sustaining traumatic brain injury in motor vehicle collision –Probable unemployability due to permanent neurocognitive

impairment – Future loss of earning capacity assessed at R3 219 510 – General damages of R1 300 000.

ORDER

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1. The defendant shall pay to the plaintiff, the capital sum of R 4 519 510 ('the capital sum'), which amount shall be due and payable within 30 (thirty) days from date of the order, failing which interest shall accrue on the capital sum at the statutory prescribed rate, calculated from due date to date of final payment.

2. The defendant shall provide O[…] M[…] with an undertaking in terms of s 17(4)*(a)* of the Road Accident Fund Act 56 of 1996, to compensate him for the costs relating to his future accommodation in a hospital or nursing home, for treatment of or rendering of a service to him, or the supplying of goods to him, arising from the injuries sustained in the collision on 9 December 2016, after such costs have been incurred and upon proof thereof.

3. The defendant shall pay the plaintiff's party-and-party costs on the High Court Scale (including VAT), as taxed or agreed, such costs to include, but not limited to the costs referred to herein, as well as the costs of counsel on Scale C, to include preparation for trial, drafting heads of argument and attending court on 27 May 2026.

4. In the event of costs not being agreed, the plaintiff shall serve a notice of taxation on the defendant's attorneys of record.

5. The defendant shall pay the plaintiff's taxed or agreed costs incurred up to and until the date hereof, as well as any subsequent costs incurred in finalising the matter and any costs incurred in obtaining the undertaking and/or payment of the capital sum, interest and costs.

6. Regarding the expert witnesses referred to hereinafter, the defendant shall pay the taxed or agreed fees and all costs attached to the procurement of medico-legal reports, as well as X-rays and scans and other related costs, the latter costs also include the costs of attending all plaintiff's and defendant's medico-legal examinations, including the qualifying fees of the experts, the amount of which will be at the discretion of the Taxing Master:

6.1 Dr P A Olivier (orthopaedic surgeon);

6.2 Prof. Tuviah Zabow (psychiatrist);

6.3 Dale Ogilvy (speech and language therapist);

6.4 Karin Trollip (educational psychologist);

6.5 Prof. Anthony Figaji (neurosurgeon);

6.6 Hayley Leonardi (occupational therapist);

6.7 Elspeth Burke (clinical psychologist0;

6.8 Dr J Reid (neurologist);

6.9 Heather Knox (industrial psychologist); and

6.10 Mary Cartwright Consultants CC (actuary).

7. The defendant shall pay costs occasioned with Rule 37A conferences.

8. Payment of the taxed or agreed costs shall be made within 14days from the date of agreement or allocatur, failing which interest shall accrue on the taxed or agreed costs at the statutory prescribed rate, calculated from due date to date of final payment.

9. Payment of the capital sum and costs shall be effected by way of electronic transfer of funds into the Trust Account of the plaintiff's attorneys, the details which are referred to hereinafter.

10. It is recorded that there is no contingency fee arrangement.

11. Plaintiff's attorney trust banking details are as follows:

BANK	First National Bank
ACCOUNT	Kruger & Co. Inc.
BRANCH	Parow
BRANCH CODE	200 510
ACCOUNT NO.	5[...]

JUDGMENT

YAKE, AJ

Introduction

[1] The plaintiff, in his representative capacity as curator ad litem of O[…] M[…] ("the minor child"), claims damages against the defendant, the Road Accident Fund ("RAF"), in terms of the Road Accident Fund Act 56 of 1996 ("the Act") arising from bodily injuries sustained by the minor child in a motor vehicle collision (‘the collision’).

[2] The collision occurred on 9 December 2016, on the N2 highway near Grabouw. At the time of the accident, the minor child, then seven years old, was a pedestrian. The collision was caused by the sole negligence the insured driver, George Hugo. As a result of the collision, the minor child sustained:

(a) fractured ribs associated with a pneumothorax;
(b) a traumatic head injury; and
(c) an open fracture of the right tibia and fibula.

[3] The pleaded sequelae of the injuries include:
(a) hospitalisation and medical treatment;
(b) future hospital and medical treatment;
(c) future loss of earnings and earning capacity; and
(d) pain and suffering, shock, discomfort and loss of amenities of life, both past and future.

[4] Liability has been settled between the parties. The defendant conceded 100% liability for the plaintiff's proven damages. An undertaking in terms of section 17(4)*(a)* of the Act in respect of future medical and hospital expenses was likewise furnished.

[5] The only remaining issues for determination are the plaintiff's claims for future loss of earning capacity and general damages.

[6] In support of the claim, the plaintiff relied on the medico-legal reports of:

6.1 Dr P A Olivier (orthopaedic surgeon);
6.2 Prof Tuviah Zabow (psychiatrist);
6.3 Dr Dale Ogilvy (speech and language therapist);
6.4 Karin Trollip (educational psychologist); and
6.5 Prof Anthony Figaji (neurosurgeon).

[7] The defendant filed the medico-legal reports of:

7.1 Dr F D J Steyn (orthopaedic surgeon);
7.2 Dr A Mbatha (neurosurgeon);
7.3 Esther Cloete (occupational therapist);
7.4 Dr Greeta M Prag (educational psychologist);
7.5 Rosa Bredekamp (counselling psychologist); and
7.6 Mr J A Botha (industrial psychologist).

[8] By agreement between the parties, all expert reports were admitted into evidence in terms of Uniform Rule 38(2). The following joint minutes were likewise admitted:

8.1 Hayley Leonardi and Esther Cloete (occupational therapists);
8.2 Elspeth Burke and Rosa Bredekamp (neuropsychologists);
8.3 Dr Reid and Dr Mbatha (neurologist and neurosurgeon);
8.4 Heather Knox and Johanna Botha (industrial psychologists).

[9] The plaintiff called one witness, Ms Heather Knox, an industrial psychologist to give evidence in support of his claim. She testified that on 11 May 2026, she prepared an addendum after receipt of the educational

psychologist's and speech and language therapist's reports, which had not been available when the joint minute was compiled. Upon consideration of those reports, she revised her opinion regarding the minor child's pre-morbid educational and vocational potential.

[10] Ms Knox further testified that the minor child and his family relocated to Zimbabwe in 2021. She acknowledged the challenges associated with predicting the minor child's future employment prospects in either Zimbabwe or South Africa.

[11] She explained that, because the minor child's future place of residence and employment remained uncertain, she utilised South African earnings data reflected in Koch's Quantum Yearbook and allowed for the attendant uncertainty by way of contingency deductions.

Submissions by parties

[12] Mr McLachlan, appearing for the plaintiff, submitted that the evidence establishes a substantial loss of earning capacity. He contended that Ms Knox's addendum was properly founded upon additional expert evidence and that her testimony remained uncontested.

[13] Counsel argued that the plaintiff's actuarial calculations should be accepted and that any uncertainty arising from the family's relocation to Zimbabwe should be addressed through contingencies.

[14] Conversely, Mr Mushwana appearing for the defendant, submitted that the minor child had largely recovered from his injuries and that Ms Knox had improperly departed from the industrial psychologists' joint minute without

justification. He argued that the pre-morbid scenario should be limited to Grade 12 and unskilled employment.

Future loss of earnings / earning capacity

[15] The plaintiff bears the onus of proving the damages allegedly suffered. Unlike general damages, patrimonial loss requires proof upon admissible evidence and, where appropriate, expert opinion and actuarial calculation.

[16] The plaintiff claims compensation in the amount of R3 219 510 for future loss of earning capacity. The assessment requires a comparison between the earning trajectory the minor child would probably have followed had the collision not occurred and that which he is now likely to follow as a consequence of the injuries sustained.

[17] Actuarial calculations provide a useful framework for that enquiry, but they do not bind the court. The assumptions underpinning the calculations must however be justified by the evidence.

[18] The industrial psychologists in the joint minute agreed that, but for the collision, the minor child would probably have completed Grade 12, albeit after repeating two grades. They further agreed that he would probably have entered the labour market after school and would initially have been employed at an unskilled level, with gradual progression through acquired skills and experience. The experts assumed normal retirement at age 65 and recommended contingency deductions to account for educational uncertainty and periods of intermittent unemployment.

[19] In respect of the post-morbid scenario, they identified significant educational, social and economic barriers adversely affecting the minor child's future prospects. They concluded that his neurocognitive difficulties substantially impair his educational advancement and vocational functioning. They considered it unlikely that he would be competitively employable in the open labour market.

[20] Dr Prag identified two possible educational trajectories. If the minor child suffered from microcephaly or a congenital condition affecting cognition, she considered that he would likely have followed a specialised educational pathway where he would have been able to complete his schooling career (NQF level 1). Absent such a condition, she concluded that he would probably have completed Grade 12 and obtained vocational training at approximately NQF Level 5.

[21] Ms Trollip similarly concluded that, but for the collision, the minor child possessed average educational potential and would probably have completed Grade 12 and a Higher Certificate qualification before entering the labour market.

[22] Professor Figaji rejected the proposition that the minor child suffers from microcephaly and attributed his present difficulties to the traumatic brain injury sustained in the collision.

[23] Dr Reid recorded significant neurocognitive deficits, including impairments in memory, attention, executive functioning, literacy and problem-solving ability. In his opinion, these difficulties materially affected the child's future employability. On the other hand, Dr Mbatha accepted that the minor child sustained a moderate traumatic brain injury and acknowledged the existence of neurocognitive sequelae. In their joint minute, Dr Reid and Dr

Mbatha agreed that the minor child sustained a moderate traumatic brain injury with associated neurocognitive sequelae.

[24] Dr Ogilvy found normal speech production and hearing acuity.

[25] The occupational therapists agreed that the minor child would benefit from ongoing therapeutic intervention and specialist educational support. They further recognised that his future vocational functioning would depend significantly upon the support and interventions available to him.

[26] The neuropsychologists agreed that the minor child displayed significant neurocognitive deficits consistent with the traumatic brain injury sustained in the collision. They concluded that he suffers from a major neurocognitive disorder accompanied by enduring personality, behavioural and cognitive changes. They further agreed that he would experience substantial educational difficulties and would be unlikely to cope successfully within mainstream education. They considered him unlikely to be competitively employable in the open labour market and in need of lifelong support.

[27] Professor Zabow likewise recognised residual psychological and cognitive difficulties attributable to the traumatic brain injury.

[28] Dr Steyn confirmed that the orthopaedic injuries had largely resolved and that no significant long-term physical disability remained. The evidence accordingly demonstrates that the principal residual injury is the traumatic brain injury and its associated neurocognitive sequelae.

[29] In evaluating the expert evidence, I attach particular weight to the joint findings of the neuropsychologists and industrial psychologists. Their conclusions are broadly consistent with the contemporaneous medical records,

the observations of the neurosurgeons and the developmental difficulties reported by the child's caregivers.

[30] No expert was called to challenge the methodology, professional competence or factual foundation of the plaintiff's experts. To the extent that differences exist between the experts, I find no reason in not accepting those opinions supported by the joint minutes and the cumulative effect of the neurological, neuropsychological, educational and occupational evidence.

[31] In my view, the evidence establishes on a balance of probabilities that the traumatic brain injury has profoundly diminished the minor child's educational and vocational potential.

[32] There is no material inconsistency between the neurosurgeons' classification of the injury as a moderate traumatic brain injury and the neuropsychologists' findings concerning its long-term consequences. The severity of a traumatic brain injury is not determined solely by its initial classification but also by its functional sequelae. The accepted evidence establishes that, irrespective of its initial grading, the injury has resulted in enduring and substantial neurocognitive impairment.

[33] In *Santam Versekeringsmaatskappy Bpk v Byleveldt,*[1] it was recognised that the assessment of future loss of earnings inevitably involves uncertainty. Such uncertainty is addressed by the application of contingency deductions to account for the vicissitudes of life, including illness, unemployment, economic factors and other unforeseen events.

[34] Similarly, in *Southern Insurance Association v Bailey NO,*[2] the Appellate Division emphasised a claim for future loss of earning capacity is inherently

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[1] *Santam Versekeringsmaatskappy Bpk v Byleveldt* [1973] 2 All SA 173 (A); 1973 (2) SA 146 (A).
[2] *Southern Insurance Association v Bailey NO* 1984 (1) SA 98 (A) at 113H–114E.

speculative and that, where sufficient material exists, actuarial computation provides a logical and useful basis for quantification. The Court observed that while such calculations remain no more than an informed estimate, they are generally preferable to a purely intuitive assessment unsupported by objective data.

[35] Likewise, in *Road Accident Fund v Guedes,*[3] the court endorsed a 'robust' approach to the assessment of future loss and confirmed that actuarial calculations provide a useful framework for determining compensation where sufficient evidential material exists. The court held as follows:

> 'It is trite that a person is entitled to be compensated to the extent that the person's patrimony has been diminished in consequence of another's negligence. Such damages include loss of future earning capacity (see for example President Insurance Co Ltd v Mathews). *The calculation of the quantum of a future amount such as loss of earning capacity, is not, as I have already indicated. a matter of exact mathematical calculation. By its nature such an enquiry is speculative, and a court can therefore only make an estimate of the present value of the loss which is often a very rough estimate (see for example Southern Insurance Association Ltd v Bailey NO. The court necessarily exercises a wide discretion when it assesses the quantum of damages due to loss of earning capacity and has a large discretion to award what it considers right. Courts have adopted the approach that in order to assist in such a calculation, an actuarial computation is a useful basis for establishing the quantum of damages.'*

[36] An actuarial report prepared by Mary Cartwright Consultants CC dated 11 May 2026, calculated the minor child's uninjured earnings on the basis that he would complete Grade 12, obtain a Higher Certificate qualification and enter the labour market in 2032. The actuarial value of his uninjured earnings was calculated at R4 599 300 before contingencies, suggesting a contingency deduction of 20%.

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[3] *Road Accident Fund v Guedes* [2006] ZASCA 19; 2006 (5) SA 583 (SCA) para 8.

[37] Mr McLachlan submitted that a higher-than-normal contingency deduction should be applied to account for the uncertainties associated with the minor child's educational progression, socio-economic circumstances and future periods of unemployment. He proposed a contingency deduction of 30%.

[38] Mr Mushwana contended that the assumptions should be confined to those reflected in the industrial psychologists' joint minute and that the minor child should be regarded as having remained within the unskilled labour sector. He contends that the calculation of the minor's loss of future earnings should be in accordance with the actuarial report of Mary Cartwright dated 24 February 2025. He further contended that Ms Knox's addendum does not justify a departure from the joint minute.

[39] The application of contingencies is a matter for judicial discretion. As was recognised in *Bee v Road Accident Fund*,[4] the younger the claimant, the greater the uncertainty regarding future educational attainment and career progression and, in appropriate circumstances, the higher the contingency deduction that may be justified.

[40] While the industrial psychologists agreed in their joint minute that the minor child would probably complete Grade 12 and initially enter the labour market at an unskilled level, the court is required to determine the issue on the totality of the evidence.

[41] Dr Prag identified two possible educational pathways. The first was premised on academic difficulties arising from microcephaly or a congenital condition. The second assumed the absence of such pathology, in which event the minor child would probably complete Grade 12 and benefit from further vocational training.

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[4] *Bee v Road Accident Fund* (093/2017) [2018] ZASCA 52.

[42] The evidence supports the latter scenario. Professor Figaji concluded that the minor child does not suffer from microcephaly and neither the neurologist nor the neurosurgeon attributed his educational difficulties to any congenital condition.

[43] The opinions of Dr Prag and Ms Trollip are broadly consistent in concluding that, but for the accident, the minor child possessed the potential to complete Grade 12 and obtain further vocational training at approximately NQF Level 5. Those opinions are persuasive and supported by the evidence as a whole.

[44] I am mindful that experts are ordinarily bound by conclusions recorded in their joint minutes unless a proper basis exists for departure therefrom. In the present matter, however, Ms Knox's addendum did not withdraw any agreed factual findings. Rather, it reflected a revised vocational opinion based upon additional educational and speech-language evidence not previously available. I am satisfied that the revised opinion is adequately supported by the broader body of expert evidence.

[45] I accordingly find that, but for the collision, the minor child would probably have completed Grade 12, obtained a Higher Certificate qualification and thereafter entered the open labour market.

[46] The family's relocation to Zimbabwe introduces uncertainty regarding the minor child's future residence and employment. The evidence does not establish that he will permanently remain in Zimbabwe for the duration of his working life, nor was reliable expert evidence presented regarding Zimbabwean earnings. In those circumstances, the use of South African earnings, coupled with enhanced contingencies, provides the most reliable basis for assessment.

[47] The minor child was only seven years old when the collision occurred. The ordinary uncertainties associated with childhood claims are compounded by his socio-economic circumstances and relocation between countries.

[48] Having regard to all the circumstances, I am satisfied that a contingency deduction of 30% against the uninjured earnings appropriately reflects the vicissitudes of life. Applying that deduction yields a net value of R3 219 510. While certain experts contemplated the possibility of sheltered or supported employment, those prospects were expressed tentatively and depended upon interventions that the evidence suggests are unlikely to be available. Any residual earning capacity is therefore too speculative to quantify. I am accordingly satisfied that the plaintiff has established a future loss of earning capacity in the amount of R3 219 510**.**

General damages

[49] I now turn to the assessment of general damages. The plaintiff claims R1 800 000, while the defendant contends R800 000 would constitute fair and appropriate compensation. It is trite that the assessment of general damages falls within the broad discretion of the court and must be undertaken upon equitable considerations.

[50] This principle was stated in *Sandler v Wholesale Coal Suppliers Ltd,*[5] where it was held that general damages must be assessed on broad and equitable considerations. It was further reaffirmed in *Southern Insurance Association v*

[5] *Sandler v Wholesale Coal Suppliers Ltd* 1941 AD 194 at 199.

Bailey NO,[6] and endorsed in *Minister of Safety and Security v Seymour,*[7] where the court emphasised that an award must be fair to both parties.

[51] In *Road Accident Fund v Marunga*,[8] the Supreme Court of Appeal stated that, although general damages cannot be determined with mathematical precision, the court should identify the factors material to the assessment and provide a reasoned basis for the award.

[52] In *De Jongh v Du Pisanie,*[9] the Supreme Court of Appeal reaffirmed that previous awards serve merely as a guide and approved the principle stated in *Pitt v Economic Insurance Co Ltd,*[10] that courts must ensure that awards are fair to both parties.

[53] Mr McLachlan submitted that the court should consider the plaintiff's age and circumstances, the nature and extent of the injuries, the sequelae and prognosis, the impact of inflation and comparable awards. He contended that an award of R1 800 000 would be appropriate.

[54] In support of that submission, counsel relied upon *Nsibande v Road Accident Fund*, *M v Road Accident Fund*, *Jamieson v Road Accident Fund* and *Tromp NO v Road Accident Fund*.[11]

[55] Mr Mushwana submitted that the minor child had made a favourable recovery and that the long-term prognosis was generally good. He argued that an award of R800 000 would constitute fair compensation.

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[6] Fn 8 supra.
[7] *Minister of Safety and Security v Seymour* [2006] ZASCA 71; 2006 (6) SA 320 (SCA) at 325B.
[8] *Road Accident Fund v Marunga* [2003] ZASCA 19; [2003] 2 All SA 148 (SCA); 2003 (5) SA 164 (SCA) para 33.
[9] *De Jongh v Du Pisanie* [2004] ZASCA 43; [2004] 2 All SA 565 (SCA); 2005 (5) SA 457 (SCA); 2004 (5J2) QOD 103 (SCA) paras 60-64.
[10] *Pitt v Economic Insurance Co. Ltd* 1957 (3) SA 284 (D) at 287E-F.
[11] *Nsibande v Road Accident Fund* (A174/2020) 2022 (8B3) QOD 1 (GNP); *M v Road Accident Fund* 2024 (8B4) QOD 76 (NCK), *Jamieson v Road Accident Fund* 2021 (8J2) QOD 1 (ECG) and *Tromp NO v Road Accident Fund* 2024 (8J2) QOD 64 (GNP).

[56] Counsel further relied on the evidence of Dr Ogilvy, who reported normal speech production and hearing acuity, and submitted that the principal residual injury was the traumatic brain injury identified by the neurosurgeons.

[57] In support of a lower award, Mr Mushwana relied on *Ncama v Road Accident Fund, Phasa v Road Accident Fund,* and *Maela v Road Accident Fund,*[12].

[58] In determining an appropriate award, I have considered the nature and extent of the injuries, the sequelae established by the expert evidence, the minor child's age, the pain and suffering endured, the permanent impairment established by the evidence, and comparable awards.

[59] The minor child sustained multiple serious injuries which necessitated hospitalisation and significant medical intervention. Although the orthopaedic injuries have largely resolved, the consequences of the traumatic brain injury remain substantial. The accepted evidence establishes persistent difficulties with memory, concentration, learning and executive functioning. The neuropsychologists diagnosed a major neurocognitive disorder and concluded that the sequelae will continue to affect the minor child's educational, social and occupational functioning. These cognitive limitations have materially diminished the minor child's ability to function independently and to realise his educational and vocational potential. They represent a substantial loss of the ordinary amenities of life and will continue to affect him throughout adulthood.

[60] I have considered the comparative awards relied upon by both parties. Although no two cases are identical, they provide a useful framework within which to assess a fair award.

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[12] *Ncama v Road Accident Fund* 2015 (7E3) QOD 7 (ECP); *Phasa v Road Accident Fund* 2012 (6E4) QOD 21 (GNP) & *Maela v Road Accident Fund* 2025 (7E4) QOD 1 (GNP).

[61] The defendant's proposed award does not adequately reflect the seriousness of the traumatic brain injury and its enduring consequences. The accepted expert evidence establishes that the injury has fundamentally altered the minor child's educational, social and vocational trajectory. At the same time, the evidence demonstrates a favourable recovery from the orthopaedic injuries and the absence of significant physical disability.

[62] Having regard to the serious traumatic brain injury, the pain and suffering endured, the residual neurocognitive sequelae, the diagnosed major neurocognitive disorder, the diminution of the amenities of life, the impact upon the minor child's future independence and functioning, his young age and the guidance provided by comparable awards, I am satisfied that an award of R1 300 000 constitutes fair and reasonable compensation for general damages.

Costs

[63] The plaintiff seeks a punitive costs order on the attorney-and-client scale. It is contended that liability was settled in July 2018; that no dispute exists between the experts regarding the minor child’s injuries, sequelae and prognosis; and that the defendant failed to advance any meaningful settlement proposals. In the alternative, the plaintiff seeks an order that counsel’s fees be taxed on Scale C.

[64] The defendant contends that an award of costs on the party-and-party scale, including counsel’s fees on Scale B, would be appropriate.

[65] The general rule is that costs follow the result. The defendant has accepted liability for the plaintiff’s costs in relation to the heads of damages that were settled. The question is whether there is a basis to depart from the ordinary scale of costs.

[66] An award of costs on the attorney-and-client scale is an extraordinary remedy, reserved for cases involving conduct that is vexatious, reprehensible, or constitutes an abuse of the court's process. Such an order may also be justified where considerations of fairness dictate that a successful litigant should not be out of pocket as a result of the conduct of its opponent. [13]

[67] I am not persuaded that this is a case for a punitive costs order. The defendant's unsuccessful defence does not, without more, constitute conduct warranting such an order.

[68] Having regard to the complexity of the issues, the value of the claim, and the extent of the legal authorities considered, it is appropriate that counsel's fees be taxed on Scale C. The plaintiff is accordingly entitled to costs on the party-and-party scale, including counsel's fees taxed on Scale C.

Order

[69] In the results, I make the following order:

1. The defendant shall pay to the plaintiff, the capital sum of R 4 519 510 ('the capital sum'), which amount shall be due and payable within 30 (thirty) days from date of the order, failing which interest shall accrue on the capital sum at the statutory prescribed rate, calculated from due date to date of final payment.

2. The defendant shall provide O[…] M[…] with an undertaking in terms of s 17(4)*(a)* of the Road Accident Fund Act 56 of 1996, to compensate him for the costs relating to his future accommodation in a

[13] *In re Alluvial Creek Ltd* 1929 CPD 532 at 535; *Public Protector v South African Reserve Bank* [2019] ZACC 29; 2019 (6) SA 253 (CC) paras 9 and 97; *Road Accident Fund v Van Wyk* (Appeal) (1169/2020; A186/2025) [2026] ZAWCHC 39 para 50.

hospital or nursing home, for treatment of or rendering of a service to him, or the supplying of goods to him, arising from the injuries sustained in the collision on 9 December 2016, after such costs have been incurred and upon proof thereof.

3. The defendant shall pay the plaintiff's party-and-party costs on the High Court Scale (including VAT), as taxed or agreed, such costs to include, but not limited to the costs referred to herein, as well as the costs of counsel on Scale C, to include preparation for trial, drafting heads of argument and attending court on 27 May 2026.

4. In the event of costs not being agreed, the plaintiff shall serve a notice of taxation on the defendant’s attorneys of record.

5. The defendant shall pay the plaintiff’s taxed or agreed costs incurred up to and until the date hereof, as well as any subsequent costs incurred in finalising the matter and any costs incurred in obtaining the undertaking and/or payment of the capital sum, interest and costs.

6. Regarding the expert witnesses referred to hereinafter, the defendant shall pay the taxed or agreed fees and all costs attached to the procurement of medico-legal reports, as well as X-rays and scans and other related costs, the latter costs also include the costs of attending all plaintiff’s and defendant’s medico-legal examinations, including the qualifying fees of the experts, the amount of which will be at the discretion of the Taxing Master:

6.1 Dr P A Olivier (orthopaedic surgeon);

6.2 Prof. Tuviah Zabow (psychiatrist);

6.3 Dale Ogilvy (speech and language therapist);

6.4 Karin Trollip (educational psychologist);

6.5 Prof. Anthony Figaji (neurosurgeon);

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6.10 Mary Cartwright Consultants CC (actuary).

7. The defendant shall pay costs occasioned with Rule 37A conferences.

8. Payment of the taxed or agreed costs shall be made within 14days from the date of agreement or allocatur, failing which interest shall accrue on the taxed or agreed costs at the statutory prescribed rate, calculated from due date to date of final payment.

9. Payment of the capital sum and costs shall be effected by way of electronic transfer of funds into the Trust Account of the plaintiff's attorneys, the details which are referred to hereinafter.

10. It is recorded that there is no contingency fee arrangement.

11. Plaintiff's attorney trust banking details are as follows:

BANK	First National Bank
ACCOUNT	Kruger & Co. Inc.
BRANCH	Parow

BRANCH CODE 200 510

ACCOUNT NO. 5[...]

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YAKE S.

ACTING JUDGE OF THE HIGH COURT

Appearances

For the Plaintiff: H G McLachlan

Instructed by: Kruger & CO

c/o Louwtjie Rothman & Manus Gerbe Street

For the Defendant: S Mushwana

Instructed by: State Attorneys