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

Not reportable
Case no: 2495/2021

In the matter between:

M[...] A[…] H[…] obo O T H **PLAINTIFF**

and

ROAD ACCIDENT FUND **DEFENDANT**

Neutral citation: *H[…] obo O T H v Road Accident Fund* (2495/2021) [2026] ZAFSHC 501 (5 November 2026)

Coram: GREYLING-COETZER J

Heard: 22, 23, 25 October 2024, 11 March 2025, 18-20 June 2025, 11 September 2025, 11 November 2025, 16 February 2026, 16 March 2026 and 11 May 2026.

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The time and date for hand-down is deemed to be 15h00 on 5 November 2026.

Summary: Judgment on quantum of future loss of earnings – motor vehicle-pedestrian accident involving a minor child injured in a – causation established – pre-morbid contingency of 60% and a post-morbid contingency of 15% – mild traumatic brain injury – pre-existing and contextual risk factors – educational and vocational trajectory – expert evidence – contingencies – costs – transcription costs – expert fees.

ORDER

1 The plaintiff particulars of claim are amended in accordance with annexed ‘PG2’ to the application to amend dated 14 May 2026.

2 The defendant shall pay the plaintiff, in her representative capacity on behalf of the minor child O T H, the sum of R1 778 118.70 (ONE MILLION SEVEN HUNDRED AND SEVENTY-EIGHT THOUSAND ONE HUNDRED AND EIGHTEEN RAND AND SEVENTY CENTS) in respect of future loss of earning capacity.

3 The amount shall be paid in accordance with the trust structure per the court order by Ramdeyal AJ dated 13 September 2024, for the protection of the minor child.

4 Interest a tempore-morae shall be calculated in accordance with the Prescribed Rate of interest Act 55 of 1975, read with s 17(3)*(a)* of the Road Accident Fund Act 56 of 1996, one hundred and eighty (180) days from the date of this order.

5 The defendant shall pay the plaintiff's taxed or agreed party-and-party costs, including counsel's fees on scale B and the qualifying, reservation and attendance fees of the plaintiff's expert witnesses who testified viva voce and for as far as said costs have not already dealt with in previous court orders, subject to the taxing masters discretion and subject to the following qualifications:

5.1 the costs of transcription of the record are disallowed;

5.2 the costs occasioned by postponements for the purpose of obtaining the transcription of the record are disallowed, insofar as not already dealt with by prior orders;

5.3. in respect of the occupation therapist - Ms G Jordaan:

5.3.1 the costs of the addendum report dated 23 October 2024 are disallowed;

5.3.2 the qualifying fee for her virtual testimony in June 2025 is limited to 70% of her fee;

5.4 in respect of the educational psychologist – Dr Naicker:

5.4.1 the costs of the opinion letter dated 22 October 2024, and second addendum report dated 24 October 2024 are disallowed;

5.5. in respect of the industrial psychologist – Dr AC Strydom:

5.5.1 25% of the costs relating to the five industrial psychologist's reports are disallowed, and

5.5.2. the qualifying fee for her virtual testimony in June 2025 is limited to 70% of her fee;

6 In the event that plaintiff's costs are not agreed, the plaintiff shall serve a Notice of Taxation on the defendant's attorney of record; and the plaintiff shall allow the defendant 180 (one hundred and eighty) court days to make payment of the taxed costs, failing which interest will accrue on the taxed costs at the prevailing legal interest rate of 10.50% per annum.

JUDGMENT

Greyling-Coetzer J

Introduction

[1] This matter concerns a claim for future loss of earning capacity brought by the plaintiff, in her representative capacity as mother and natural guardian of the minor child, O T H (hereafter referred to as O). O was a pedestrian when he was struck by a motor vehicle on 22 September 2020. He was seven years old at the time.

Procedural history

[2] On 13 September 2024, Ramdeyal AJ granted an order recording that the defendant was liable for 100% of the plaintiff's proven or agreed damages, general damages were settled at R800 000.00, a s 17(4)*(a)* undertaking in terms of the Road Accident Fund Act 56 of 1996 was ordered, and provision was made for a trust to protect the minor child's award. The only remaining issues which this Court stands to determine is O's future loss of earning capacity.

[3] The trial commenced during October 2024 and became part-heard. On 25 October 2024, it was postponed to afford the defendant an opportunity to appoint expert witnesses. The defendant ultimately elected not to place any competing expert

model before Court. The matter continued on 18, 19 and 20 June 2025 for the completion of viva voce evidence. Thereafter it was postponed on several occasions for argument, ultimately being argued on 11 May 2026. The matter has thus been pending for more than two years since the first trial dates.

[4] Pursuant to judgment being reserved but before judgment was granted, the plaintiff sought an amendment of the particulars of claim directed at bringing the pleadings into conformity with the issues ventilated during the trial. The defendant did not oppose the application. Having considered the amendment as sought and in the absence of prejudice to the defendant, the amendment ought to be granted as sought.

The injuries

[5] O sustained a left midshaft femur open fracture. He underwent debridement and open reduction internal fixation of the left femur at Pelonomi Hospital and was hospitalised for approximately two weeks. He has permanent hypertrophic scarring over the lateral and medial aspects of the left thigh and, on the plaintiff's case, a mild traumatic brain injury with residual neurocognitive, scholastic and vocational sequelae.

The evidence

[6] The following witnesses testified viva voce: the plaintiff; Ms Tamaryn Anthony; Dr Labuschagne, a neurosurgeon; Dr Naicker, an educational psychologist; Ms Magubane, a clinical psychologist; Ms Jordaan, an occupational therapist; and Dr Strydom, an industrial psychologist. The reports of Dr Barlin, an orthopedic surgeon and Dr Hoffmann, a plastic and reconstructive surgeon, were admitted into evidence without those experts being called to testify. The actuarial certificate of Mr Sauer, dated 19 June 2025, was similarly admitted. The defendant called no witnesses. The evidence which served before this Court can be summarised as follows.

The plaintiff

[7] The plaintiff testified that she has a Grade 11 qualification, while O's biological father has a Grade 9 qualification. She is unemployed and relies on social grants and

odd jobs as income. O's father was absent from his life for the period 2019 to 2022 and was not providing financial assistance during that period.

[8] O was born on 13 September 2013. He was enrolled at K[…] W[…] en K[…] at approximately three years of age. A school report from that institution dated June 2018, when O was approximately four years and eight months old, recorded concerns regarding his short attention span, his inability to give feedback on stories, and fine motor difficulties. The plaintiff testified that O experienced a delay in speech development, which was raised by a clinic sister after he was enrolled at K[…] W[…] en K[…]. She attributed this to the fact that three different languages were spoken at home (Sotho, Tswana and Xhosa) while O was schooling in Afrikaans. She testified that O was described by others as hyperactive before the accident. She did not seek medical assistance in this regard.

[9] The family relocated in mid-2018 and O left the creche during his Grade RR year. O did not attend Grade R, primarily due to financial constraints. He commenced Grade 1 at J[…] S[…] Primary School in 2020, the year of the COVID-19 pandemic. During Term 1 of 2020, prior to the accident, O failed. No marks were recorded for Term 2 due to the national lockdown. He failed Term 3 of Grade 1 as well. At the end of 2020, he was condoned to Grade 2 pursuant to the Department of Basic Education's policy of promoting all learners irrespective of academic performance during the pandemic. The accident occurred in September 2020. Following the accident, O did not attend school for approximately six weeks, whereafter he returned to J[…] S[…] Primary school and continued his schooling.

[10] The plaintiff conceded that she was not aware of the content of the K[…] W[…] en K[…] report, as it was in Afrikaans and it had not been explained to her. She conceded that she never noted that O struggled with both English and Afrikaans throughout his academic career. She testified that, at the time of her evidence, O was not fluent in any language. The plaintiff testified that since the accident, O has had problems focusing, his moods fluctuate, he struggles to sleep, he is less talkative, he is

rude, he does not want to play with other children, and he sometimes forgets what he was sent to collect. She has to push him to do his homework.

[11] The plaintiff's evidence unfortunately suggests that she did not fully appreciate the nature and extent of O's developmental and scholastic challenges. The speech delay identified by the clinic sister was not addressed, and the concerns recorded in the creche report did not appear to have been fully understood. O was not enrolled for Grade R, and the plaintiff maintained that O was progressing well at school, notwithstanding repeated indications in the school reports that certain difficulties had been identified.

[12] The Grade 1 school report reflects that O failed both Term 1 and Term 3 which was prior to the accident. In Term 1, he scored 36% below the grade average in English, 30% below the grade average in Afrikaans, 8% below the grade average in Sotho, and 17% below the grade average in mathematics. In Term 3, he scored 13% below the grade average in English, 39% below the grade average in Afrikaans, and 39% below the grade average in mathematics. O was condoned from Grade 1 to Grade 2. O's underperformance in core subjects, were present prior to the accident.

[13] The Grade 2 school report records '[O] has a problem with remaining focused in class and often does not listen to instructions. Better results can be achieved'. A further comment states '[O's] reading needs to improve a lot. He is also very shy to speak in English. Please help him at home'. A Support Level 2 Report for Grade 2 records concerns with auditory memory, visual discrimination, spatial and body orientation, and fine motor movement, with a recommendation for didactic support. The Grade 4 school report records '[O] has made good progress, however he struggles to focus in class'. The Grade 5 school reports record repeated failure to meet pass requirements, with specific reference to underperforming in core subjects. O failed Terms 1, 2 and 3 of Grade 5, in each instance because he did not achieve the required level in English as Home Language.

Ms Tamaryn Anthony

[14] Ms Tamaryn Anthony is an intermediate phase teacher at J[…] S[…] Primary School, where she teaches Afrikaans First Additional Language to Grade 5 learners, and she is the coordinator of the Site Based Support Team (SBST). She testified that the school has approximately 1,450 learners, with approximately 45 learners per class, the majority of whom do not speak Afrikaans or English as a home language. Her evidence is relevant in that she was not a retained expert witness, but a teacher who had observed O's academic performance in the ordinary course of her duties.

[15] Towards the end of the third term of 2024, Ms Anthony initiated a meeting with the plaintiff because O's marks were not improving and had fluctuated during the year. He had been failing throughout the year, and she was concerned about his performance in English, Afrikaans and mathematics, including that the required core-subject levels were not being achieved. She proposed that O be assessed by a remedial teacher at the school and thereafter referred to the Department of Education for further assessment. Depending on the outcome, the possible interventions included remedial support, placement in a Learner Special Educational Needs ('LSEN') class, or referral to a special school, such as Dr Bohmer School, Pholoho School or Lettie Fouche School. She further testified that even if O were placed in a remedial school, he could still qualify up to an NQF Level 4 qualification.

[16] In cross-examination, Ms Anthony conceded that O was not the only learner experiencing difficulties and that other learners also struggled with concentration. She acknowledged that such difficulties may arise for various reasons unrelated to an accident, including the absence of fathers and the surrounding community environment. Of the approximately 250 Grade 5 learners at the school, she had identified approximately 70 to 80 as struggling learners, representing about one third of the cohort. She attributed these difficulties, in significant measure, to the consequences of the 2020 COVID-19 condonation year.

[17] Before turning to the specific expert evidence and opinions, a general observation regarding the quality and reliability of the expert evidence presented on behalf of the plaintiff is warranted. This observation is not intended to impugn the integrity of the experts, but because the observations directly inform the weight attached to their opinions and the costs order made at the conclusion of this judgment.

[18] Guided by the principles set out in *P.J obo A.J v Road Accident Fund (P.J OBO A.J)*,[1] *Schneider NO and Others v Aspeling and Another*,[2] *Nonyane v Road Accident Fund*[3] and *Donough v Road Accident Fund*.[4] An expert witness is not gun for hire nor a strategic operative employed for a defined task nor to reach a predetermined destination. The expert's duty is to the Court. An opinion built upon unverified subjective history, which ignores or minimises material pre-morbid risk factors, is of diminished probative value and wasteful.

[19] Several of the plaintiff's expert reports suffered from a common and significant deficiency in that they either ignored or materially minimised the pre-morbid risk factors that were, on the evidence, plainly relevant to O's educational and vocational trajectory. These risk factors inter alia included the clinic sister's reported speech development concern, the content of the June 2018 report from K[...] W[...] en K[...] which recorded difficulties with concentration, attention, task completion, language-based activities and fine motor tasks, O's non-attendance of Grade R, the COVID-19 disruption during his Grade 1 year, his multilingual home environment in which he was not fluent in any single language, the absence of his father from his life during the period 2019 to 2022, the overcrowded home environment, the large class sizes at J[...] S[...] Primary School, and the pre-accident Grade 1 school reports reflecting performance significantly below the grade average in all core subjects.

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[1] *P.J obo A.J v Road Accident Fund* (72576/2018) [2023] ZAGPPHC 1778 (3 October 2023) paras 62-64.
[2] *Schneider NO and Others v Aspeling and Another* [2010] ZAWCHC 3; 2010 (5) SA 203 (WCC); [2010] 3 All SA 332 (WCC) at 211E-212B.
[3] *Nonyane v Road Accident Fund* [2017] ZAGPPHC 929 paras 12-16.
[4] *Donough v Road Accident Fund* (8962/06) [2010] ZAGPJHC 100; 2011 (6B4) QOD 56 (GSJ) (5 November 2010) paras 55-57.

[20] Some of the factors identified above emerged only during the plaintiff's evidence, and the relevant experts cannot fairly be criticised for having failed to consider information that was not previously available to them. That said, the relevant experts failed to source independent verification of that which was relayed to them by the plaintiff. In respect of the remaining factors, however, the failure to engage adequately with known and material considerations undermined the reliability of the experts' pre-morbid postulations and, in certain instances, rendered their opinions flawed and of limited assistance to the Court.

Orthopedic surgeon

[21] Dr Barlin, assessed O on 8 June 2022. He diagnosed a left midshaft femur open fracture. O continues to experience intermittent pain at the femoral fracture site on activity but has full ranges of pain-free motion of all lower limb joints. The injury has not resulted in any permanent orthopedic disability and no future orthopedic treatment is foreseen. The orthopedic surgeon's evidence is therefore that the orthopedic injuries do not affect O's future earning capacity.

Plastic surgeon

[22] Dr Hoffmann examined O on 5 September 2024, he recorded permanent visible hypertrophic scarring, including a 24cm x 1cm surgical scar over the lateral aspect of the left thigh with visible suture marks up to 3cm wide, and a 4cm x 1cm scar over the medial left thigh with visible suture marks up to 2.5cm wide. Revision was not recommended. The scarring is permanent. Dr Hoffmann recognised the psychological component of visible scarring in a child of O's age and deferred to the occupational and educational experts regarding productivity and working ability.

Educational psychologist

[23] Dr Naicker prepared four reports, an initial report dated 20 June 2022, a first addendum dated 9 September 2024, an opinion letter dated 22 October 2024, and a second addendum dated 24 October 2024. In her initial report, Dr Naicker postulated that, but for the accident, O would have progressed steadily at school, gained

proficiency in English, obtained a matric pass and attained an NQF 6 qualification. Post-accident, she initially postulated an NQF 4 qualification, with possibly an NQF 5 qualification. In her first addendum report, she revised the post-accident postulation to NQF 4 only. In her opinion letter and second addendum report, she further revised the post-accident postulation to NQF 3, based on a 'considerable decline' in scholastic performance, and recommended placement in an LSEN school.

[24] Dr Naicker's explained that her methodology involved reliance on multiple sources: psychometric testing, school reports, collateral information, and contextual factors including language exposure, schooling environment and family background. She explained that school reports are inherently subjective and curriculum-based, whereas standardised scholastic assessments enable comparison against age-based national norms.

[25] During cross-examination Dr Naicker conceded that she had consulted O and the plaintiff only once. She had not had sight of the Road to Health Chart and had no independent corroboration that O had reached the developmental milestones relied upon. She conceded that she did not know that O had not attended Grade R at all, and that the foundational building blocks for Grade 1 onwards would therefore be missing. She conceded that missing foundational building blocks tend to snowball over time. She confirmed that she did not consult any teachers in forming her pre-morbid postulation. She testified that she did not know the class size or teacher-learner ratio at O's school. She agreed that O's father was absent from his life for the period 2019 to 2022. Dr Naicker further conceded that, having regard to the creche report and the Grade 1 school report, her statement that O met promotion requirements for most subjects was factually incorrect. The contrary was true. Postulations borne from a factually incorrect premise cannot be said to bear full probative value.

[26] Dr Naicker confirmed that learning difficulties may arise without any head injury; emotional and learning difficulties can arise independently of accident-related injuries; language barriers, disrupted schooling and socio-economic factors can adversely affect

academic performance independently of trauma; foundational building blocks were missing before the accident; O entered Grade 1 during the COVID year with significant educational disruption; promotion under COVID policies occurred despite missing foundational skills; teachers repeatedly recorded difficulties with attention and focus; O was described as easily distracted and losing interest quickly before the accident; hyperactivity and inattention can exist independently of trauma or injury; no medical diagnosis of ADHD was made but this does not negate the existence of attention difficulties; a possible differential diagnosis is that O has pre-existing learning problems; and O may still be able to attain an NQF 4 qualification.

Occupational therapist

[27] Ms Jordaan prepared two reports. Her initial report was dated 10 August 2022 and addendum 23 October 2024. She does not foresee any permanent functional physical disabilities, and O's physical abilities will not hinder his occupation of choice in the future. The assessment did not demonstrate any physical limitations and no pain was reported. She testified that pain is not a significant problem, although there may be flare-ups.

[28] Ms Jordaan noted throughout her reports that O struggles to concentrate and that his attention fluctuated. She noted that O's interest was not in paper-based activities and that he required prompting for sedentary tasks, while he enjoyed gross motor activities more. Her assessment results noted areas of concern in perceptual and cognitive functioning, including attention, social reasoning, mental exertion, numerical reasoning and verbal reasoning, as well as academic difficulties in reading, spelling and academics. Areas of concern were also noted in psychosocial functioning, including signs of short-temperedness, aggressive behavior and moodiness.

[29] During cross-examination, Ms Jordaan conceded that, in opining on O's pre-morbid potential, she had relied on information provided by the plaintiff without independent verification. She had not had sight of the Road to Health Development Chart and was not informed that a clinic sister had raised concerns about O's speech

development. She conceded that this would have been a red flag to consider. She further testified that, having regard to the creche report, the information that O was on par with development in all aspect's pre-accident was incorrect. She acknowledged that the creche report reflected concerns in areas involving a language component, fine motor skills and creative activities, and that O would have been exposed to those activities for approximately 18 months already at the time the report was prepared.

[30] Ms Jordaan's core occupational therapy findings were that O's physical functioning was largely intact, that his biggest functional hurdle was concentration and task persistence, and that he presented with fallouts in visual-perceptual functioning, particularly spatial relations and visual closure. These findings are consistent with the broader expert evidence and are accepted. The addendum report by Ms Jordaan, as the defendant correctly observed, consisted substantially of a summary of other expert reports and contained only approximately eight sentences of Ms Jordaan's own assessment observations. It added nothing material to her assessment of O's physical abilities or functional profile. The addendum report was of negligible independent value.

Industrial psychologist

[31] Dr Strydom, prepared five reports. Her initial report of 27 January 2023, a first addendum report 10 September 2024, a letter dated 23 October 2024, a second addendum report 16 January 2025 and third addendum report 18 June 2025. The operative report is the third addendum report of June 2025. Pre-morbidly, Dr Strydom postulated that O would have completed Grade 12, obtained a three-year diploma (NQF 6), and entered the labour market at a semi-skilled level with progression into the skilled occupational band, reaching a career ceiling in his mid-forties and retiring at approximately 65 years. Post-morbidly, she postulated that O is unlikely to reach his pre-morbid educational or vocational potential, limiting him to approximately NQF 3, delayed entry into the labour market, employment predominantly within the unskilled to lower semi-skilled categories, and a materially diminished earning trajectory.

[32] During cross-examination, Dr Strydom agreed that various factors can influence academic performance and the ability to continue studies, including educational levels of family members, financial resources, willingness to study, and labour-market trends. She conceded that there is a possibility that, but for the accident, O could only have attained a Grade 12 (NQF 4) qualification. She agreed that only approximately 60% of learners who enter Grade 1 ultimately write matric, that the matric pass rate is just over 55%, and that nearly 40% of learners exit the education system at Grade 11 level. She conceded that only 12% of learners who start Grade 1 go on to complete Grade 12, and that only 10% of that group obtain a post-school qualification. She testified that there is definitely a chance that O may not have obtained a Grade 12 qualification, and that this should be addressed through contingencies. She agreed that there are career opportunities available post-morbidly which would allow O to earn between R78,000.00 per annum and R486,000.00 per annum as his annual income increases to its peak.

Clinical psychology

[33] Ms Magubane conducted a neuropsychological assessment approximately four years post-accident during 2024. Her assessment was based on a single clinical interview with O and the plaintiff, a review of collateral medico-legal reports, and selected neuropsychological testing. The assessment relied substantially on retrospective, subjective accounts of pre- and post-accident functioning provided by the plaintiff and O, in the absence of contemporaneous pre-accident scholastic or psychological records. Objective testing demonstrated intact attention, processing speed, rote learning and long-term auditory memory, with only domain-specific and fluctuating weaknesses in working memory, verbal functioning, visuo-spatial skills and long-term visual memory. Despite these largely preserved cognitive capacities, the report attributed academic, behavioral and emotional difficulties to the accident.

[34] Ms Magubane testified that she did not know where the location of the brain injury was, and that no scans were available. She conceded that cognitive and behavioral changes can arise independently of accident-related injuries. She conceded that puberty commonly manifests in moodiness, irritability, emotional volatility and

difficulties with emotional regulation, and that behavioral changes may be attributable to puberty rather than any traumatic event. She agreed that the absence of a consistent male role model, changes in family structure, a crowded household, possible neglect, academic frustration and the emotional impact of a strained relationship with the father are all plausible alternative contributors to anger, irritability and behavioral dysregulation. She conceded that it is difficult to isolate a single causative factor for the reported behavioral changes, and that no objective diagnostic tool exists to conclusively link such changes to the accident. She conceded that she cannot rule out that O had pre-existing ADHD.

[35] Notably, during the assessment itself, O interacted well with Ms Magubane. His speech and thought processes were normal, and he was cooperative and able to follow instructions. No formal diagnosis of mood disorder, PTSD or behavioral disorder was made. Anxiety screening fell below clinical thresholds.

Neurosurgeon

[36] Dr Labuschagne is one of the last experts to have examined O in September 2024. He classified O's injury as a mild head injury with reported residual memory and concentration disturbances. He explained that mild head injuries are often more difficult to diagnose than severe injuries because there may be no CT scan or obvious structural pathology. The diagnosis must therefore be made by piecing together hospital records, collateral history, the child's own account, present complaints, examination findings and relevant expert testing.

[37] Dr Labuschagne acknowledged the limitations of the available records. The hospital records were incomplete. O's Glasgow Coma Scale score on arrival was not recorded. No CT scan or MRI was performed. There was no objective record of a head injury, no abrasions or lacerations to the head, and no record of treatment for a head injury. The diagnosis of mild traumatic brain injury rested substantially on the reported history of loss of consciousness and post-traumatic amnesia, the mechanism of injury, and the neurocognitive and behavioral sequelae identified by other experts.

[38] In cross-examination, Dr Labuschagne conceded that loss of consciousness was reported by O and the plaintiff and was not independently verified. He conceded that medication can affect memory. He conceded that he had not considered whether mood changes could be attributable to hormonal changes associated with puberty. He testified that, if he were to disregard the information obtained from O and the plaintiff, he would still reach the same diagnosis if he were given two pieces of information: that O was involved in a collision causing a femur fracture, and that either he or a colleague detected neurological or neuropsychological deficits.

Legal principles

[39] The legal principles applicable to loss of earning capacity are well established. Earning capacity refers to a person's potential and prospects to generate future income using their skills, talents, abilities and experience. Where this potential has been diminished as a result of injuries sustained in an accident, and the quantum income value that could have been generated to the estate is depreciated, there has been a loss of earning capacity.[5] The assessment of future loss of earning capacity is necessarily predictive. The Court is not required to find certainty. It is required to determine probabilities on the evidence. Where such loss is established, the Court must use the available evidence to determine the quantum of the loss.[6]

[40] The concession of merits does not relieve the plaintiff of the obligation to prove causation. The plaintiff must still satisfy the Court that, but for the accident, O would not have suffered the harm and injuries complained of, and that O's injuries and damages arose from the accident.[7] In *M S v Road Accident Fund*,[8] the Court proposed that the inquiry is best approached in four stages: first, whether the negligence of the third-party driver caused the accident; second, whether the plaintiff sustained the pleaded injuries

[5] *Southern Insurance Association Ltd v Bailey NO* 1984 (1) SA 98 (A).
[6] *Road Accident Fund v C K* [2018] ZASCA 151; [2019] 1 All SA 92 (SCA); 2019 (2) SA 233 (SCA) paras 25-26.
[7] *Prince v Road Accident Fund* (CA143/2017) [2018] ZAECGHC 20 (20 March 2018) paras 7-9; *Gumede v Road Accident Fund* (49209/2017) [2021] ZAGPPHC 568 (24 August 2021) paras 20 and 23.
[8] *M S v Road Accident Fund* [2019] ZAGPJHC 84; [2019] 3 All SA 626 (GJ) para 12.

in the accident; third, how those proven injuries affected the plaintiff; and fourth, how the plaintiff should be remunerated for the effects of such injuries. It is the third stage - the second causation inquiry - that is most directly in issue in this matter.

[41] In *P J obo AJ*,[9] the Court emphasised that expert witnesses must state all facts and assumptions upon which they base their opinions, that opinions based on conjecture or speculation are at risk of being disallowed, and that a court is not bound to accept the evidence of an expert witness. The Court must decide for itself whether it can safely accept the expert's opinion. Judges must never abdicate their judicial responsibility of adjudicating matters with an independent mind.

[42] In *Ndlovu v Road Accident Fund*,[10] Spilg J held that if the patient is the source of the information regarding the injury and the facts supplied differ from those recorded in primary source documents, this should be clearly stated. There remains a need for the expert's report to distinguish between primary extrinsic data used and the patient's comments. An untested version amounts to an assumption and should not be masqueraded as factual evidence. In *Mdluli obo KM v Road Accident Fund,*[11] the Court held that learning gaps cannot be solely attributed to an accident where the causation is a combination of factors, including accident sequelae and COVID-19 pandemic disruption. The Court further held that it is not helpful to a court if all evidence presented is only and exclusively aimed at the best scenario for the injured victim.

[43] In *GT obo ET v Road Accident Fund* (*GT obo ET*)*,*[12] the Court observed that, where experts agree that a child may have been afflicted by pre-accident cognitive difficulties, and where other factors such as the onset of teenage years, the school environment and the choice of subjects have not been adequately considered, the causal link between a mild traumatic brain injury and a drop in school performance may

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[9] Op cit fn 1 para 63.
[10] *Ndlovu v Road Accident Fund* [2013] ZAGPJHC 201; 2014 (1) SA 415 (GSJ) paras 80-82.
[11] *Mdluli obo KM v Road Accident Fund* (2012/07895) [2022] ZAGPJHC 606 (24 August 2022) paras 29-31 and 56.
[12] *GT obo ET v Road Accident Fund* (A5072/18) [2019] ZAGPJHC 500 (27 November 2019) paras 29-31.

be difficult to establish. In *P E M obo P C M v Road Accident Fund*,[13] the Court held that where the expert opinion is contrary to the objective evidence of school reports, there is no basis for going against what is contained in the school reports. Contingency deductions remain a matter of judicial discretion. The discretion is wide but must be exercised judicially, on the facts and probabilities established by the evidence.[14]

Analysis

Causation

[44] The central issue which called for careful consideration in this matter is whether the cognitive, behavioral and scholastic difficulties observed in O are causally attributable to the accident and the injuries sustained therein, or whether they are attributable to pre-existing or independent factors. The defendant mounted a sustained challenge to the existence of any accident-related neurocognitive sequelae. The challenge was not without some merit. The medical records do not record a head injury, no CT or MRI scan was performed, no physical trauma to the head was documented, thus no location of the head injury was known, and the Glasgow Coma Scale on arrival was not recorded. The diagnosis of mild traumatic brain injury rests substantially on collateral history provided by the plaintiff and O, the mechanism of injury, and the neurocognitive findings of the clinical and educational psychologists, which predated the neurological examination.

[45] The plaintiff's neurosurgeon diagnosed a mild head injury with reported secondary neuropsychological disturbances. However, his diagnosis was based substantially on subjective reporting by O and the plaintiff, in the absence of objective medical evidence. The Court is mindful of the caution expressed in *Matabane obo M v Road Accident Fund*[15] and in *GT obo ET*, that a diagnosis of mild traumatic brain injury based primarily on subjective reporting and mechanism of injury, without objective corroboration, must be approached with care. The Court is equally mindful of the

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[13] *P E M obo P C M v Road Accident Fund* (4545/2019) [2025] ZAMPMBHC 49 (6 June 2025) paras 41-42.
[14] *Road Accident Fund v Guedes* [2006] ZASCA 19; 2006 (5) SA 583 (SCA) para 8.
[15] *Matabane obo M v Road Accident Fund* (2014/31190) [2015] ZAGPJHC 248 (30 October 2015) paras 58-59.

observations in *P.J obo A.J v* regarding the risk of expert opinions built upon unverified subjective histories.

[46] Nonetheless, having regard to all the evidence as a whole, the Court finds that causation has been established but on a decidedly slender evidential foundation. The following considerations support this finding. Dr Labuschagne's evidence as to the mechanism of injury, a pedestrian struck with sufficient force to cause an open midshaft femur fracture, is consistent with a significant impact capable of causing a concussive event even in the absence of documented external head trauma. He further testified that mild head injuries frequently present without CT or MRI abnormality and that the diagnosis must be assembled from the totality of the clinical picture. His evidence was not displaced by cross-examination, and no competing neurosurgical evidence was placed before Court. The clinical psychologist, Ms Magubane, identified a neurocognitive profile characterised by fluctuating cognitive flexibility, reduced working memory, reduced verbal abilities, reduced visuo-spatial abilities and a mixed memory-learning profile. These findings are consistent with, though not exclusively explained by, a mild traumatic brain injury.

[47] The finding on causation rests on the narrowest of evidential margins. The evidence revealed a substantial body of pre-morbid and contextual risk factors that independently and materially contributed to O's scholastic difficulties. These are addressed in detail below and are reflected in the contingency deductions applied for the reasons set out later in this judgment.

Probable pre-accident educational and vocational trajectory

[48] The plaintiff's case on O's probable pre-accident educational and vocational trajectory is that, but for the accident, O would have attained an NQF 6 qualification (a three-year diploma) and entered the labour market at a semi-skilled level, progressing into the skilled occupational band. This postulation was advanced by Dr Naicker and adopted by Dr Strydom. Having regard to all the evidence, the Court is not satisfied that

the NQF 6 postulation represents the most probable pre-accident trajectory. The reasons are as follows.

[49] The pre-accident school record does not support the postulation. O failed both Term 1 and Term 3 of Grade 1 before the accident. His marks in English, Afrikaans and mathematics were consistently and significantly below the grade average. The Grade 1 school report reflects a clear pattern of underperformance in core subjects that predates the accident. Dr Naicker relied on O's Grade 1 Term 1 and 3 marks as being reflective of his post- accident functioning and her statement that O met promotion requirements for most subjects was factually incorrect, correctly conceded by her cross-examination.

[50] The creche report records multiple areas of concern that predate the accident by more than two years. These include concentration difficulties, short attention span, inability to give feedback on stories, difficulty with counting, confusion of letters, confusion of left and right, and fine motor difficulties. These concerns arose after approximately 18 months of attendance and cannot be attributed to unfamiliarity. They are consistent with the pattern observed in subsequent school reports and with the plaintiff's own evidence that O was hyperactive and 'everywhere' before the accident.

[51] O did not attend Grade R at all. Grade R is the foundational phase in which school readiness is assessed and early challenges are identified and addressed. Dr Naicker conceded that, had O attended Grade R and the challenges continued, he would not have been put through to Grade 1 to resolve those issues. The absence of a Grade R report means that the 'paper trail' of O being flagged at an early age is absent, not because there were no concerns, but because the screening grade was never attended. O entered Grade 1 in 2020, the year of the COVID-19 pandemic. His first year of formal schooling was significantly disrupted. He was condoned from Grade 1 to Grade 2 under COVID progression policies, despite not having achieved the required marks. The foundational building blocks for Grade 1 were therefore absent, and those for Grade 2 were built on an incomplete foundation. Dr Naicker conceded that missing

foundational building blocks tend to snowball and negatively affect later academic performance.

[52] O is not fluent in any language. Three African languages are spoken at home (Sotho, Tswana and Xhosa), none of which is English or Afrikaans. English and Afrikaans were therefore effectively his fourth and fifth languages. He was educated in Afrikaans at creche and in English at primary school, neither of which was his home language. The language barrier is a significant and pre-existing risk factor for academic underachievement, independent of the accident. The socio-economic and family circumstances present material pre-existing risk factors. The plaintiff has a Grade 11 qualification, is unemployed and relies on social grants. O's father has a Grade 9 qualification and was absent from O's life for the period 2019 to 2022. The household is overcrowded, with six people sharing a home. These circumstances reduce the probability of O attaining a tertiary qualification, independent of the accident.

[53] The national statistics cited by Dr Strydom are sobering. Only approximately 60% of learners who enter Grade 1 ultimately write matric. The matric pass rate is just over 55%. Only 12% of learners who start Grade 1 go on to complete Grade 12. Only 10% of that group obtain a post-school qualification. Nearly 40% of learners exit the education system at Grade 11 level. Funding for further studies is not guaranteed. Dr Strydom herself conceded that there is definitely a chance that O may not have obtained a Grade 12 qualification, and that it is a possibility that he could only have attained a Grade 12 qualification but for the accident.

[54] The pre-morbid postulation of NQF 6 was premised on a factually incorrect foundation. Dr Naicker relied on information provided by the plaintiff, without independent verification. She did not have sight of the Road to Health Chart. She did not know that O had not attended Grade R. She did not consult any teachers. She did not know the class size or teacher-learner ratio. She was not aware of the father's absence. The information provided to her that O had no pre-accident developmental

challenges and was on par with development in all aspects was, as she conceded, incorrect.

[55] Having regard to all of the above, the Court finds that the NQF 6 pre-morbid postulation is not supported by the evidence on a balance of probabilities. The evidence establishes that O had significant pre-existing challenges cognitive, attentional, linguistic, foundational and socio-economic that would have materially affected his educational trajectory independent of the accident. The evidence further does not support a finding that O would probably only have attained an NQF 3 qualification but for the accident. The evidence of Dr Strydom, considered with the national statistics and the concessions made, supports the conclusion that O may have obtained a Grade 12 (NQF 4) qualification but for the accident, albeit with significant uncertainty. The Court finds that the most probable pre-accident educational trajectory is an NQF 4 qualification (Grade 12), with the possibility but not the probability of further tertiary study.

[56] In terms of vocational trajectory, the Court accepts Dr Strydom's evidence that, with an NQF 4 qualification and the pre-existing challenges identified, O would most probably have entered the labour market at a semi-skilled level, with earnings in the range of R170,000.00 to R344,500.00 per annum, peaking at approximately 45 years of age. This is consistent with the first and second scenarios described by Dr Strydom in cross-examination.

Probable post-accident educational and vocational trajectory

[57] The Dr Naicker the educational psychologist's post-accident postulation changed progressively from NQF4/5 in her first report, to NQF4 in her second report, and ultimately to NQF3 in her opinion letter and third report. This downward revision occurred without any further assessment of O, raising concerns regarding the reliability of the final postulation. Moreover, Ms Magubane the clinical psychologist's objective neuropsychological findings of largely intact attention and processing speed are difficult to reconcile with a post-accident profile that would limit O's educational attainment to

NQF3. The possibility of O attaining an NQF4 qualification was not excluded by the evidence. Dr Naicker and Dr Strydom conceded that this remained possible. Ms Anthony also testified that learners attending remedial schools in the Bloemfontein area can attain NQF4 qualifications through appropriate remedial or special educational placement.

[58] The Court finds that NQF3 remains the most appropriate post-morbid educational postulation. This postulation is supported by Ms Anthony's classroom evidence, Ms Jordaan's occupational therapy findings, Ms Magubane's clinical psychological evidence, and the school reports. Although the objective neuropsychological findings are encouraging, they must be considered alongside the cumulative effect of the accident-related mild traumatic brain injury on a child who was already academically vulnerable. Having regard to the pre-existing academic risk factors and the sequelae of the accident, I find it more probable than not that O will attain NQF3 rather than the NQF4 qualification he would probably have attained but for the accident.

[59] That said, the evidence does not establish NQF3 as an absolute ceiling on O's educational potential, yet the most probable. The concessions by the plaintiff's experts, the largely intact attention and processing speed demonstrated in Ms Magubane's objective neuropsychological testing, and Ms Anthony's evidence regarding the educational outcomes of learners in remedial schools support the slight possibility of a higher qualification.

The actuarial calculation and contingencies

[60] Mr Johan Sauer's actuarial certificate dated 19 June 2025 was admitted into evidence. The certificate calculates the future loss of earning capacity on the basis of NQF 6 pre-morbid and NQF 3 post-morbid, applying contingencies of 25% pre-morbid and 50% post-morbid, yielding a total future loss of R5 726 855.00. The RAF cap has no effect on the calculation. As set out above the NQF 6 pre-morbid assumption has not been accepted. The probabilities demonstrated most probable but still uncertain attainment of NQF 4 pre-morbid and NQF 3 post-morbid.

[61] No fresh actuarial calculation on the NQF 4 vs NQF 3 basis was placed before Court. The Court must therefore work with the actuarial calculation before it, adjusted to reflect the Court's findings on the probable scenarios and appropriate contingencies. The Court is accordingly required to do the best it can with the available evidence, as contemplated in *Southern Insurance Association Ltd v Bailey NO*[16] and *Road Accident Fund v Kerridge.*[17] Summons was instituted in 2021, and the matter has been pending for approximately two years since the first trial date in 2024. It would not be in the interests of justice, nor in the interest of O to delay finalisation further by calling for fresh calculations. The Court will apply appropriate contingency deductions to the available actuarial figures to reflect the probable pre-morbid and post-morbid scenario and account for the uncertainties present in this matter.

[62] The assessment of contingencies is a matter of judicial discretion, to be exercised on the facts and probabilities established by the evidence.[18] Contingencies are a tool for accommodating uncertainty. They are not a mechanism for replacing a proved expert model with unproved possibilities, but they must genuinely reflect the risks established by the evidence. They are in the present matter the most suitable mechanism to do justice between the parties.

[63] The evidence established inter alia the following risk factors: the nature and extent of the injuries sustained; the pre-existing challenges and risk factors identified; the probable pre- and post-accident educational and vocational trajectories; the national statistics regarding educational attainment and labour market participation; the concessions made by the plaintiff's experts; the absence of competing expert evidence from the defendant; the actuarial values attached to the various Paterson levels identified by Dr Strydom; the principle that the Court should avoid both over-compensation and under-compensation.

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[16] Op cit fn 5.
[17] Op cit fn 6.
[18] Op cit fn 14.

[64] The Court has had regard to s 28(2) of the Constitution of the Republic of South Africa, 1996, which provides that a child's best interests are of paramount importance in every matter concerning the child.[19] Section 28(2) does not reverse the onus of proof or permit speculation. It does, however, inform the Court's approach to the exercise of its discretion. Mindful that O's young age and the fact that his future career path has not yet crystallised should not, in themselves, justify an excessive reduction of his claim, the contingencies applied are intended to account for risks supported by the evidence and not to operate to the detriment of the minor child.

Pre-morbid contingency

[65] The plaintiff proposed a pre-morbid contingency of 35%. The defendant proposed 70%. The Court has had regard to the decision in *R.J.M v Road Accident Fund* (*R.J.M*),[20] as referred to. Therein a pre-morbid contingency of 30% was applied in respect of a 22-year-old plaintiff with a more settled educational profile. The present matter involves a minor child with a significantly more uncertain pre-morbid profile. The cumulative weight of the pre-morbid risk factors justifies a substantially higher pre-morbid contingency than the 25% applied in the actuarial calculation, and a higher deduction than the 35% proposed by the plaintiff.

[66] The Court applies a pre-morbid contingency of 60%. This is a substantial deduction, consciously so. It reflects the extent of the evidence presented and inter alia the following cumulative risk factors, all of which existed independently of the accident:

(a) the non-attendance of Grade R, resulting in the absence of foundational literacy and numeracy screening and the absence of foundational building blocks for Grade 1;

(b) the documented pre-school difficulties recorded in the June 2018 crèche report, including difficulties with concentration, attention, task completion,

[19] *S v M (Centre for Child Law as Amicus Curiae)* [2007] ZACC 18; 2008 (3) SA 232 (CC) 2007 (12) BCLR 1312 (CC); 2007 (2) SACR 539 (CC) paras 14-16.
[20] *R.J.M v Road Accident Fund* (60042/2019) [2024] ZAGPPHC 238 (4 March 2024) paras 19-23.

language-based activities and fine motor tasks, which difficulties had persisted for approximately 18 months of crèche attendance and cannot be attributed to unfamiliarity;

(c) the pre-accident Grade 1 results, which reflect performance significantly below the grade average in all core subjects in Term 1 and Term 3;

(d) the multilingual home environment in which O was not fluent in any single language, with Afrikaans and English being effectively his fourth and fifth languages;

(e) the COVID-19 disruption during his Grade 1 year, resulting in further gaps in foundational learning;

(f) promotion to Grade 2 by condonation despite unmet competencies, with the consequence that foundational building blocks were absent from the outset of his formal schooling career;

(g) the absence of his father from his life during the period 2019 to 2022;

(h) the overcrowded home environment and limited homework support;

(i) the large class sizes at J[...] S[...] Primary School;

(j) the low parental educational attainment;

(k) the national educational statistics, which indicate that only approximately 60% of learners who enter Grade 1 write matric, that the matric pass rate is just over 55%, and that nearly 40% of learners exit the education system at Grade 11 level; and

(l) the concession by the industrial psychologist that there is a definite chance O may not have obtained a Grade 12 qualification absent the accident.

[67] The Court also takes into account that the pre-morbid scenario has been adjusted downward from NQF 6 to NQF 4, which adjustment is not reflected in the actuarial report before court. These factors are real and material. They do not establish a diagnosed pre-existing disorder. They do not prove that O would probably have followed the same reduced post-morbid trajectory absent the accident. They are, however, substantial contingency amplifiers.

Post-morbid contingency

[68] The plaintiff proposed a post-morbid contingency of 50%. The defendant proposed 10%. The Court has had regard to the decision in *R.J.M*, where a post-morbid contingency of 15% was applied on the basis that the post-morbid earnings were potentially undervalued. The Court applies a post-morbid contingency of 15%. The post-morbid scenario Grade 11 / NQF 3, unskilled to semi-skilled work is a more certain outcome, still with some unknowns.

[69] O retains full physical capacity. Vocational pathways exist within the local education system. The industrial psychologist confirmed that career opportunities are available to O in the post-morbid scenario, including practical, repetitive and supervised work, with annual earnings ranging from approximately R78 000.00 to R486 000.00 depending on the specific occupation. The post-morbid postulation may, if anything, be somewhat pessimistic. A lower contingency deduction is accordingly appropriate. The 15% post-morbid contingency reflects ordinary labour-market risk, employment instability, and the vicissitudes of life.

Calculation of the award

[70] Applying the contingencies to the actuarial figures available, being those in Mr Sauer's certificate dated 19 June 2025, the calculation is as follows: pre-morbid future earnings R9 094 325.00, less 60% contingency of R5 456 595.00, yields net pre-

morbid future earnings of R3 637 730.00. Post-morbid future earnings R2 187 778.00, less 15% contingency of R328 166.70, yields net post-morbid future earnings of R1 859 611.30.

[71] Future loss of earning capacity, R3 637 730.00 minus R1 859 611.30 equals R1 778 118.70. The RAF cap has no effect. The Court accordingly awards R1 778 118.70 in respect of future loss of earning capacity.

Costs

[72] The general rule is that costs follow the result. The plaintiff has succeeded in establishing a claim for future loss of earning capacity, albeit at a reduced quantum. The defendant's primary submission, that the claim should be dismissed in its entirety, has been rejected. The plaintiff is accordingly entitled to a costs order in her favour, subject to the qualifications set out below.

Costs of transcription

[73] The defendant seeks an order disallowing the costs of transcription of the record. The transcription filed dealt with the portion of the trial which was dealt with virtually on the 18th to 20th of June 2025. The matter was 20 June 2025 postponed for argument on 11 September 2025. The transcription was prepared in December 2025. The transcription was not sanctioned nor requested by the Court. It was obtained on election of the plaintiff. Mindful that once filed it was available for the benefit of both the defendant and the Court, there is nothing before this Court to indicate that it was reasonably necessary for the conduct of the proceedings. The costs of transcription are disallowed.

[74] By parity of reasoning, the same apply to costs occasioned by postponement of the matter for the purpose of obtaining the transcription for as far as same has not already been dealt with by order of court.

Expert costs

Occupational therapist

[75] The defendant seeks an order disallowing the costs of the second report of the occupational therapist, Ms Jordaan, dated 23 October 2024 and disallowing the recovery of her full qualification fees for her later testimony in June 2025. The report consisted substantially of a summary of other expert reports and contained only approximately eight sentences of Ms Jordaan's own assessment observations. It added nothing material to her assessment of O's physical abilities or functional profile. It was of no quantifiable value to the court.

[76] Regarding the qualification fees it was contended by the defendant that Ms Jordaan, was unaware of crucial information when preparing her report, relied on subjective information without independent verification, and made incorrect findings as a result. A limitation of her qualification fees pertaining to her testimony of 18 June 2025 is justified. The limitation should however balance the fact that she was not made aware of the aforementioned information by the plaintiff but equality did not seek to independently verify same. Consequentially, the fees for the occupational therapist addendum report dated 23 October 2024 is disallowed and her qualification fees for 18 June 2025 are limited to 70%.

Educational psychologist

[78] The defendant seeks an order disallowing the costs of the educational psychologist's reports dated after 13 September 2024. The opinion letter dated 22 October 2024 and the second addendum report dated 24 October 2024, were prepared after the date of the court order of 13 September 2024 and involved no new assessment of O. They represented a progressive revision of the post-morbid postulation without any fresh psychometric testing or personal engagement. The costs of those two reports namely the opinion letter dated 22 October 2024, and the second addendum report dated 24 October 2024, are disallowed to reflect the Court's displeasure at the inter alia deficiencies in her pre-morbid assessment methodology, her failure to obtain and consider material pre-morbid information, and the factually incorrect premise from which her pre-morbid postulation proceeded.

[79] The defendant further seeks an order disallowing Dr Naiker's full qualification fee. While a limitation of her qualification fees is justified, Dr Naiker's testified prior to 25 October 2024 and qualification fees has already been dealt with in the order dated 25 October 2024, which was granted by agreement between the parties.

Industrial psychologist

[80] Dr Strydom, prepared five reports. The defendant seeks an order disallowing a portion of the costs for the five reports and disallowing the recovery of her full qualification fees for her later testimony in June 2025. None of the five reports included an objective and realistic approach by including alternative pre-morbid scenarios in particular, a Grade 12/NQF 4 pre-morbid scenario to enable the Court to make a proper determination on the probable scenarios. Allowing that Dr Strydom adopted the postulations made by Dr Naicker, she is obliged to consider and scrutinises a report she is intending to rely on and on noting the slightest error formulate an independent opinion.

[81] The failure to include such alternatives left the Court without actuarial calculations on the probable pre-morbid scenario ultimately accepted. This is unsatisfactory and has caused inconvenience and potential prejudice. The Court disallows 25% of the costs relating to the five industrial psychologist's reports, to reflect the Court's displeasure at this approach. The qualifying fee of Dr Strydom for her later testimony in June 2025 is limited to 70%.

Order

[82] Consequently and for the reasons set out above the following order is made:

1 The plaintiff particulars of claim are amended in accordance with annexed 'PG2' to the application to amend dated 14 May 2026.

2 The defendant shall pay the plaintiff, in her representative capacity on behalf of the minor child O T H, the sum of R1 778 118.70 (ONE MILLION SEVEN HUNDRED AND SEVENTY-EIGHT THOUSAND ONE HUNDRED AND EIGHTEEN RAND AND SEVENTY CENTS) in respect of future loss of earning capacity.

3 The amount shall be paid in accordance with the trust structure per the court order by Ramdeyal AJ dated 13 September 2024, for the protection of the minor child.

4 Interest a tempore-morae shall be calculated in accordance with the Prescribed Rate of interest Act 55 of 1975, read with s 17(3)*(a)* of the Road Accident Fund Act 56 of 1996, one hundred and eighty (180) days from the date of this order.

5 The defendant shall pay the plaintiff's taxed or agreed party-and-party costs, including counsel's fees on scale B and the qualifying, reservation and attendance fees of the plaintiff's expert witnesses who testified viva voce and for as far as said costs have not already dealt with in previous court orders, subject to the taxing masters discretion and subject to the following qualifications:

5.1 the costs of transcription of the record are disallowed;

5.2 the costs occasioned by postponements for the purpose of obtaining the transcription of the record are disallowed, insofar as not already dealt with by prior orders;

5.3. in respect of the occupation therapist - Ms G Jordaan:

5.3.1 the costs of the addendum report dated 23 October 2024 are disallowed;

5.3.2 the qualifying fee for her virtual testimony in June 2025 is limited to 70% of her fee;

5.4 in respect of the educational psychologist – Dr Naicker:

5.4.1 the costs of the opinion letter dated 22 October 2024, and second addendum report dated 24 October 2024 are disallowed;

5.5. in respect of the industrial psychologist – Dr AC Strydom:

5.5.1 25% of the costs relating to the five industrial psychologist's reports are disallowed, and

5.5.2. the qualifying fee for her virtual testimony in June 2025 is limited to 70% of her fee;

6 In the event that plaintiff’s costs are not agreed, the plaintiff shall serve a Notice of Taxation on the defendant's attorney of record; and the plaintiff shall allow the defendant 180 (one hundred and eighty) court days to make payment of the taxed costs, failing which interest will accrue on the taxed costs at the prevailing legal interest rate of 10.50% per annum.

D GREYLING-COETZER
JUDGE OF THE HIGH COURT

Appearances

For the plaintiff: D Marx

Instructed by:	VZLR Inc Attorneys, Pretoria
	c/o Du Plooy Attorneys, Bloemfontein
For the defendant:	J Gouws
Instructed by:	State Attorney, Bloemfontein.